THE SUPREME COURT OF BANGLADESH

CRIMINAL RULES AND ORDERS

(PRACTICE AND PROCEDURE OF SUBORDIATE COURTS), 2009

VOLUME I

ISSUED BY THE AUTHORITY OF THE SUPREME COURT
(HIGH COURT DIVISION)

****
^^^^^^^^^^-পাবলিকেশন-^^^^^^^^^^

^^^^^^ফৌজ পাল পাবলিকেশন^^^^^^
=======মুনিগঞ্জ, বাগেরহাট=====

•••পিডিএফ প্রাপ্তি স্থান যোগাযোগ••••
Gopal Chandra Paul
Bench Assistant।
gopalchandrapaul@yahoo.com

অতি জরুরী
বিশেষ দূত মারফত

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার
আইন, বিচার ও সংসদ বিষয়ক মন্ত্রণালয়
বিচার শাখা-৪।

নং বিচার-৪/৩এম-৮/০৮/৭১৭ তারিখ ঃ ৩০-৬-২০০৯ ইং।

বিষয় ঃ বাংলাদেশ সুপ্রীম কোর্ট কর্তৃক প্রণয়নকৃত Criminal Rules and Orders (Practice and Procedure of subordinate Courts), 2009, অনুমোদন প্রসংগে।

সূত্র ঃ বাংলাদেশ সুপ্রীম কোর্ট, হাই কোর্ট বিভাগের ১১/৬/০৯ ইং তারিখের ৮০২৯ জি, স্মারকযুক্ত পত্র।

উপর্যুক্ত বিষয় ও স্মারকসূত্রের প্রেক্ষিতে জানাইতেছি যে, বাংলাদেশ সুপ্রীম কোর্ট কর্তৃক প্রণয়নকৃত Criminal Rules and Orders (Practice and Procedure of subordinate Courts), 2009, Volume-I & Volume-II জারী করার নিমিত্ত মহামান্য রাষ্ট্রপতির সদয় অনুমোদন করিয়াছেন (অনুলিপি সংযুক্ত)।

এমতাবস্থায়, উল্লেখিত অনুমোদিত Volume-I & Volume-II জারীর নিমিত্ত প্রয়োজনীয় ব্যবস্থা গ্রহণের জন্য নির্দেশক্রমে অনুরোধ করা হইল।

সংযুক্ত ঃ Volume-I & Volume-II ।

স্বাঃ- অস্পষ্ট

(আজিজ আহমদ ভূঞা)
সিনিয়র সহকারী সচিব
ফোন- ৭১৬২৯২০ (অঃ)

মাননীয় রেজিস্ট্রার
বাংলাদেশ সুপ্রীম কোর্ট, ঢাকা।

রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

রবিবার, জুলাই ৫, ২০০৯

বাংলাদেশ সুপ্রীম কোর্ট,
হাইকোর্ট বিভাগ, ঢাকা।

প্রজ্ঞাপন

ঢাকা, ২১ শে আষাঢ় ১৪১৬/৫ জুলাই, ২০০৯

নং ৮৭৬৭। - গণপ্রজাতন্ত্রী বাংলাদেশের সংবিধানের ১০৭(১) অনুচ্ছেদ মোতাবেক মাহমান্য রাষ্ট্রপতির অনুমোদনক্রমে বাংলাদেশ সুপ্রীম কোর্ট উহার অধঃস্তন ফৌজদারী আদালতসমূহের রীতি ও পদ্ধতি নিষন্ত্রণের জন্য নিম্নলিখিত বিধি এবং আদেশসমুহ প্রণয়ন করিল ঃ-

Criminal Rules and Orders (Practice and Procedure of Subordinate Courts), 2009, Volume I and Volume II

এই বিধি এবং আদেশসমূহ অবিলম্বে কার্যকর হইবে।

প্রধান বিচারপতির আদেশক্রমে

এম আতোয়ার রহমান
রেজিস্টার (ভারপ্রাপ্ত)।

Criminal Rules and Orders
(Practice and Procedure of Subordinate Courts), 2009

VOLUME I

Contents

CHAPTER I

Pages

Preliminary -------- ---------- ----------

CHAPTER II

General

1. Court Hours -------- ---------- ----------
2. Court Diary -------- ---------- ----------
3. Caused List -------- ---------- ----------
4. Petitions -------- ---------- ----------
5. Affidavit -------- ---------- ----------
6. Adjournments -------- ---------- ----------

CHAPTER III

Processes and their Service

1. Issue of Processes ---------- ---------
2. Service and Execution of Processes ---------- ---------
3. Service of Processes through Police ---------- --------

CHAPTER IV

Cognizance of Offence

1. Police File ....
2. Complaint ....
3. Transfer of Cases to the Court of Sessions ....

CHAPTER V

Trial before a Court of Sessions.... ....

CHAPTER VI

Appeal, Reference and Revision
1. Appeal ....
2. Reference and Revision ....

CHAPTER VII

Bail bonds ....

CHAPTER VIII

Recording of Evidence ....

CHAPTER IX

Arrangement and Preparation of Records During Trial

1. Division of records into files

A. Courts of Sessions.... ....

B. Courts of Magistrates ....

C. Courts to which transfer application are made ...

D. Courts of Appeal and Revision (other than the High Court Division_ ....

E. All Courts: Supplementary file of documents...

2. Exhibits ....

A. Documents ....

(i) Documents tendered in evidence ....

(ii) Documents exhibited as evidence ....

(iii) Return of documents ....

(iv) Documents not admitted as evidence ....

B. Articles ... .

3. The Record ....

4. Title Page..... ....

5. Table of Contents ....

6. The Order-sheet ....

(i) How to maintain the Order-Sheet ....

(ii) Order-sheet of the Sessions Court ....

(iii) Order-sheet of the Magistrate's Court... ....

CHAPTER X

Judgment ....

CHAPTER XI

Execution ....

CHAPTER XII

Disposal of Property ....

CHAPTER XIII

Information ....

CHAPTER XIV

Copying Department and Copies ....

1. Copying Department ... .

2. Presentation of application for copies ....

3. Preparation of application for copies ....

4. Preparation and issue of Photocopies ....

CHAPTER XV

Legal Practitioners ... .

1. Vokalatnama ....

2. Public Prosecutors ....

CHAPTER XVI

Miscellaneous Fees and Charges ... .

1. Searching and Copying Fees ... ...

2. Fees for Affidavits ... .

3. Fees of foot and finger print expert and the Government Examiner of Questioned documents ....

4. Cancellation of Court Fee Stamps ... .

CHAPTER XVII

Inspection of Records not sent to the Record Room.... ....

CHAPTER XVIII

Record Room: Management of the Record Room and General Duties of the Record Keeper and his Staff ....

CHAPTER XIX

Transmission of Records to the Record Room ....

1. Transmission of Records ....
2. Receipts of Records ....
3. Arrangement of Records ....
4. Inspection of Records ....
5. Custody, removal, transmission of records and documents contained therein ....
6. Transmission of Records from one Court to another ....

CHAPTER XX

Destruction of Records ....

CHAPTER XXI

Reconstruction of Records and Registers destroyed or damaged by fire etc. ....

CHAPTER XXII

Registers ... .

1. General ... .
2. Primary Registers ... .
3. Subsidiary Registers ....
4. Statistical Registers ... ...

CHAPTER XXIII

Periodical Returns and Statements ... ...

1. General ... ...
2. Cases Received or Disposed of By Transfer ....
3. Cases Referred and Received on Reference ... ...
4. Duration of cases ....
5. Submissions of Periodical Returns ... ...
6. Miscellaneous ....

CHAPTER XXIV

Annual and Confidential Reports ... .

1. Annual Report
2. Annual Confidential Report ....

CHAPTER XXV

Libraries ... ...

CHAPTER XXVI

Forms, Stationery, Furniture and Stores ... .

CHAPTER XXVII

Office Rules and Administrative Works ... ...

1. Office and Routine... ... ...

2. Correspondence ... ...

3. Communications with the High Court Division .....

4. Administrative work, office management and supervision ... ...

CHAPTER XXVII

Inspection and Conference ... ...

1. Inspection ... ...

2. Judicial Conference ... .

CHAPTER XXIX

Dress, Judicial Officer's Residence, Leave etc. ....

1. Dress of Judicial Officers ... ...

2. Dress of Advocates ....

3. Residence of Judicial Officers ... ...

4. Witnesses appearing in Uniform ... ...

5. Leave ... ...

CHAPTER XXX

Accounts Rules ... .

1. General ... .
2. Heads of Accounts ... .
3. Receipt of Money ... .
4. Payment of Money ....
5. Settlement of Court ... ...
6. Account Keeping and Remittance of the Treasury...
7. Deposit and Repayment Registers ....
8. Control over Subordinate Courts ....
9. Monthly Returns ....
10. Annual Clearance Registers of Deposits ....
11. Lapsed Deposits ... .
12. Supplementary rules as to receipts under heads (b) to (g) of Rule 506 ....
13. Rules relating to Fines.

CHAPTER XXXI

Juvenile Court ....

CHAPTER XXXII

Rules Respecting to Delivery to Military Authorities of

persons Liable to be Tried by Court Marital under section 549 of the Code

CHAPTER XXXIII

Miscellaneous Instructions ....

CHAPTER XXXIV

Repeal and Savings ....

Volume- I

CHAPTER-I

PRELIMINARY

Rule 1. (1) These rules may be called the ¨**Criminal Rules and Orders (Practice and Procedure of Subordinate Courts), 2009**".

(2) These rules shall apply to all Criminal Courts in Bangladesh over which the High Court Division exercises its superintendence and control:

Provided that if any provisions of these rules are found inconsistent with the provisions of any other law for the time being in force, the latter shall, to the extent of such inconsistency, prevail.

(3) These rules shall come into force at once.

Rule 2. In these rules, unless the context otherwise requires

(1) ''Code" means the Code of Criminal Procedure, 1898. (Act V of 1898)

(2) ¨Court" means any of the following Criminal Courts in Bangladesh, namely: -

  (i) Courts of Session:

  (ii) Courts of Magistrate which include the following four classes of Judicial Magistrates, namely: -

    (a) Chief Metropolitan Magistrates in Metropolitan areas and Chief Judicial Magistrates in other areas,

    (b) Senior Judicial Magistrates (First Class), who shall, in Metropolitan areas, be known as Metropolitan Magistrates,

    (c) Judicial Magistrates of the Second Class, and

    (d) Judicial Magistrate of the Third Class;

(iii) Executive Magistrates; and

(iv) Any other Court or Tribunal constituted under any law for conducting any criminal proceeding;

(3) ¨High Court Division" means the High Court Division of the Supreme Court of Bangladesh;

(4) ¨Judge" means and includes Sessions Judges, Special Judges, Tribunal Judges and Judicial Magistrates;

(5) Words and expressions used in these rules and not defined here, but defined in the Penal Code (Act No. XLV of 1860) and the Code of Criminal Procedure, 1898 (Act No. V of 1898), have the meanings respectively assigned to them in those Codes.

CHAPTER- II

GENERAL

1. Court Hours

Rule 3. (1) The ordinary hours of sitting for all Courts on week days shall be from 9:30 a.m. to 4:30 p.m. or the hours prescribed by the High Court Division from time to time.

(2) On each of the week days, there shall ordinarily be an interval at mid-day for a period not exceeding forty-five minutes.

(3) During the month of Ramadan, Courts may rise at hours on week days as prescribed by the High Court Division from time to time.

(4) The Judges and Magistrates shall not close their Courts even for part of a working day except on the days indicated in the list of Holidays without the previous permission of the High Court Division. In case of emergency, they may solicit necessary instructions from the High Court Division.

Rule 4. Every Judge/Magistrate shall sit daily and punctually at the hour prescribed for the opening of his Court, unless prevented by circumstances, which are to be recorded in the proceedings of the Court. In no circumstances, the presiding Judge/Magistrate shall allow his administrative or departmental work to interfere with his judicial work during Court hours.

Rule 5. (1) Administrative work should be done either before the sitting, or after the rising hour, or after the disposal of the say's judicial work on the bench, if it occurs earlier.

(2) On days when the administrative work to be done is heavy, the Presiding Officer may rise half an hour earlier for the purpose.

(3) The working hours in the officer of all Courts shall be from 09.00 a.m. to 5.00 p.m. or the hours prescribed from time to time by the High Court Division.

Rule 6. The hearing of a case taken up before the closing hour of the Court may be continued for a short period after that hour, but no new case should be taken up after the hour fixed for rising of the Court;

Provided that the hearing of a case shall not ordinarily continue after 8 p.m. save and except that a Presiding Officer may, in case of urgent necessity, for reasons to be recorded by him in the order-sheet and the Court diary, continue his sitting beyond that hour.

Rule 7. All Fridays and Saturdays, or any other day, if declared by the Government as weekly holiday(s), will be observed as weekly holiday(s).

Rule 8. Without the consent of the parties and in the absence of urgent necessity, no criminal enquiry or trial shall ordinarily be held on weekly holiday(s) or no Gazetted holiday(s); but if in the opinion of the Presiding Judge or Magistrate, the observance of such holiday(s) would seriously interfere with the enquiry or trial of any case in progress at that time, such Judge or Magistrate may after recording his reasons in the order-sheet and without the consent of the parties, continue to hold the enquiry or trial, as the case may, be on those days.

Rule 9. The Civil Court vacation published by the High Court Division is for observance in the Civil Courts only, The Criminal Courts particularly the Courts of all Judicial Magistrates, usually should not be closed on days when the Public Treasuries and the Government offices are open:

Provided that the Judicial Magistrates may avail themselves of one month vacation in a year by rotation or that they may be given one month's basic pay in lieu thereof, subject to approval of the concerned authority.

Rule 10. The Sessions Judges, Special Judges, Nari-O-Shishu Nirjatan Daman Tribunal Judges and other Judges exclusively dealing with

criminal matters may avail themselves of the Civil Court vacation subject to approval of the High Court Division:

Provided that the above mentioned Judges may be given one month's basic pay in lieu of enjoyment of the vacation subject to approval of the concerned authority.

Rule 11. A Sessions Judge appointed as Vacation Judge shall perform all functions of a Sessions Judge and exercise all powers including the disposal of urgent applications, revisions and appeals according to their exigencies.

Rule 12. Judicial work shall ordinarily be done in public Court houses and not in the residences of the judicial officers. But in special circumstances, the Judicial Magistrates are competent to hold Courts elsewhere.

2. Court Diary

Rule 13. Diary in the prescribed Form No. (R) 8 shall be maintained in every Court in the following manner: -

(i) Each case fixed for and day shall be entered in advance immediately upon a date or adjourned date being fixed, each such entry showing the purpose for which it is set down on each date.

Note 1. The purpose should be indicated by suitable headings written in red ink, such as, for trial, for enquiry, for framing of charge, for hearing of any interlocutory application, for argument, for judgment, for order etc.

Note 2. Appeals and Miscellaneous Cases should also be shown in the diary.

(ii) Progress made in each case shall be shown briefly under each date and also the reason for adjournment.

(iii) Number of witnesses examined in each case shall be noted.

(iv) A running total in red ink shall be inserted from day to day with the object of showing the total number of witnesses examined during each quarter of the year, a new serial number shall start at the beginning of each quarter.

(v) A Judicial Officer who any day performs other duties in addition to his judicial work, shall note in the diary for that day how his time has been distributed between different classes of work-fraction. However less than half an hour should be ignored.

Rule 14. The Presiding Officer of the Court shall insert in the diary with his own hand (i) the hour of his arrival in offices, (ii) the hours at which he takes his seat for Judicial work before and after recess, (iii) the hours between which administrative or judicial work is done, and (iv) the hour of rising.

Rule 15. The hours of Judicial work and administrative or other works shall be so inserted by a Presiding Officer in the diary that it is possible to ascertain clearly as how much time he has devoted to each of those works.

3. Cause List

Rule 16. (1) For information of the parties, their Advocates and the public, a Daily Cause List Register in the prescribed Form No. (M) 1 shall be maintained in every Court and laid at some conspicuous part of the

Court room for the inspection of all concerned not later than 5 p.m. of the working day preceding that to which the list relates.

(2) All cases, petitions, appeals and applications for revision or transfer and all other judicial business shall be shown in the order in which they appear in the diary and the judgment ready for delivery shall also be notified in the Cause List.

(3) At the close of the day, entries should be made in the Daily Cause List showing in addition (a) results of all cases disposed of, (b) dates or adjourned dates fixed on that day of cases not disposed of, and (c) any order requiring specific action.

Note 1. The Cause List shall be prepared in Bangla.

Note 2. The Cause List shall bear the dated signature of the Presiding Officer of the Court whose duty is to see that list is posted not later than the hours fixed in the rules and that the entries therein are properly and correctly made.

Note 3. For the purpose of the Cause List, the case is sufficiently indicated by its number, year and class.

4. Petitions

Rule 17. All petitions, petitions of appeal, affidavits and papers of similar character presented to the Court shall, as far as possible, be-

(i) typewritten or written fairly and legibly on foolscap water marked paper, known as ‘Pie’ or ‘Cartridge’ or ‘Demy’ paper obtainable from the treasury and sold by all licensed stamp-

vendors, one side of the paper only being used and quarter margin together with at least one and a half inches of blank space being left at the top and bottom of each sheet;

(ii) dated and signed by the person presenting and where necessary, by such other person as may, by law, be required to sign them;

(iii) signed by the scribe or the typist, who shall state the capacity in which he has written or typed them, and if he is the licensed clerk of a legal practitioner, his license number also.

Note 1. Any petition, petition of appeal, affidavit or any other paper of similar nature which is not clearly and legibly written shall immediately be returned to the Advocate or party filing it by the Judicial Officer concerned.

Note 2. Advocates shall be responsible for the form and handwriting used in every paper and shall satisfy themselves that the provisions of this rule have been complied with before filing and shall sign them accordingly.

Rule 18. (1) Applications in regard to distinct subject-matters shall be made in separate petitions.

(2) A petition must not contain more than one prayer or one series of connected prayers relating to the same subject-matter, or of alternative prayers of the same kind.

(3) A petition shall, in addition to the particulars required by law, also contain the Acts and Sections or Rules or other authority under which it is presented.

Rule 19. No Court shall receive any petition unconnected with any enquiry or trial or other proceedings authorized by the Code.

Rule 20. (1) Every interlineation, erasure or correction in a shall be initialed by the party or his recognized agent or the Advocate presenting it.
(2) Number should be expressed in figures, and when dates are given in any petition, affidavit, etc, they should ordinarily be followed by the corresponding English dates.

Rule 21. (1) In every petition, etc., the full names of parties should bear consecutive numbers and a separate line should be allotted to the full name and description of each person.
(2) The numbers referred to in sub-rule (I) should be changed and in the event of death of a party during the pendency of the proceeding if his near relatives appear and want to continue the same, their names should be shown by sub-numbers.

Rule 22. No adjournment petition, list of documents or applications which the Court may consider material shall ordinarily be filed unless copies thereof have previously been served on the Advocate for each set of parties whose interests are not joined.

Rule 23. The petitions in cases fixed for the day shall be filed at least within 15 minutes of the time fixed for the sitting of the Court in rule 3 and all other petitions and documents, by such hour not beyond 09.30 a.m. as may be fixed by the Court, except the papers the occasion for the filing of which arises after the aforesaid hour.

Note. Petitions and documents presented after the prescribed hour shall not be accepted by the Court unless good cause is shown for the delay.

5. Affidavit

Rule 24. (1) Every affidavit to be used in a Court shall be entitled "In the Court of ..... at....." naming such Court.

(2) Every affidavit shall be drawn up in the first person and divided into paragraph, numbered consecutively, and each paragraph, as nearly as may be, shall be confined to a distinct portion of the subject-matter and should be properly verified.

Rule 25. Every person other than a party in a criminal case or proceeding in which the application is made, making an affidavit, shall be described in such manner as shall serve to identify him clearly and where necessary for this purpose, the affidavit shall contain his full name, age, father's name, profession or trade and place of residence, and shall be subscribed either with a signature in his own hand or his left thumb-impression.

Rule 26. (1) Unless it be otherwise provided, an affidavit may be made by any person having cognizance of the facts deposed to.

(2) Two or more persons may join in an affidavit, but each shall depose separately to those facts, which are within his knowledge, and such facts shall be stated in separate paragraphs.

Rule 27. When the declarant in any affidavit swears to any fact within his knowledge, he must do so directly and positively using the word "I affirm (or 'make oath') and say".

Rule 28. Every affidavit should clearly express how much is a statement of the declarant's knowledge and how much is a statement made on his information or to his belief and must also state the source or ground of the information or belief with sufficient particularity.

Rule 29. Every person making an affidavit, if not personally known to any Judge or Magistrate or any Commissioner of Affidavits/Oaths appointed by the High Court Division or the Court of Session shall be identified to such Judge, Magistrate or the Commissioner, as the case may be, by an Advocate or some one known to him and the Judge, Magistrate and the Commissioner, as the case may be, shall state at the foot of the affidavit (a) the name and description of the person identifying, and (b) the time and place of the making of the affidavit.

Rule 30. Where the declarant is a 'Pardanashin' woman, she shall be identified by a person to whom she is known and before whom she is accustomed to appear unveiled and such person shall at the foot of the affidavit certify that declarant was identified by him and sign his name thereto and shall also prove such identification by a separate affidavit.

Rule 31. The person before whom an affidavit is presented shall, before signing, be satisfied that the contents of the affidavit are known to the declarant and that it contains his signature or thumb-impression.

Rule 32. Every correction in an affidavit shall be authenticated by the Judge, Magistrate or the Commissioner of Affidavits/Oaths, as the case may be, before whom it is presented for swearing or affirmation.

……

6. Adjournments

Rule 33. When examination of witnesses has once begun in an enquiry or trial, the same shall continue from day to day until all witnesses in attendance have been examined. The Court must avoid examining witnesses piecemeal unless the Court finds the adjournment thereof beyond the following day to be necessary for reasons to be recorded in the order-sheet.

Rule 34. (1) Criminal cases and proceedings shall be so conducted in a Court that they may be disposed of as expeditiously as possible and all Courts shall exercise their discretion in the matter of adjournment cautiously so that a case or proceeding is not lingered unnecessarily for a long time.

(2) No adjournment should be given in any case without a proper application by the prosecution or the defense and except on sufficient ground, and when an adjournment is granted, it should be for a brief period and, as far as possible, a short date should be fixed.

(3) The practice of examining prosecution witnesses in installments and prolonging this examination over a long period shall, as rule, be avoided by all Courts.

CHAPTER III

PROCESSES AND THEIR SERVICE

1. Issue of Processes

Rule 35. In every process of whatever description or an order issued or made by a Judge or a Magistrate, for whatever purpose, it may be issued or made, in the name of the district and jurisdiction of the Judge or the Magistrate of the Court from which be same is issued or made and also the name and powers of the Officer issuing it shall be clearly set out in full and in such manner that it may be easily read and the same should also bear the seal of the Court as specified in rule 688.

Rule 36. (1) All processes, notices, copies of complaints and other documents filed in Courts shall be written or typed in Bangla or English on durable paper of foolscap size.

(2) Whenever carbon copies are filed under this rule, they must be distinct and legible.

Rule 37. (1) The hour of attendance to be entered in every summons or process issued by a Court shall be 9 a.m. unless the court otherwise directs.

(2) The summons issued to a registered Medical Practitioner should state for his attendance the time when the Court concerned expects to be in a position to examine him, and his examination should take place at the time indicated in the summons or as soon thereafter as practicable.

Rule 38. When the question of requiring Envoys and Foreign Consular Officers to attend Court as witnesses arises, steps may be taken to minimize any inconvenience that may be felt by them by fixing a time convenient to them during Court hours for recording their evidence or where it will appear to the Court that personal attendance will occasion inconvenience to them by issuing a commission when it is applied for.

Rule 39. (1) Processes should ordinarily be issued in Bangla or in the language of the Court, but where processes are sent for service to a Court where the language is different, they shall be accompanied by a translation into the language of such court into English.

(2) Where the return of service or report stating the reason for non-service is in a language different from that of the issuing Court, they shall be accompanied by an English translation thereof.

Rule 40. Processes issued to foreigners should always be in English.

Rule 41. (1) Every person on whom a process is to be served or executed shall be described therein as fully as possible so as to identify that person clearly, that is, by the statement of his or her correct full name, father's, mother's or husband's name, as the case may be, occupation, address and such further particulars as will facilitate identification.

(2) In the case of service of summons on a Corporation, the full description of the local authority or other Principal Officer of the Corporation should be stated so that such authority or other Principal Officer may be easily identified.

(3) In the case of service or execution of a process in a Metropolitan area or a large town, the name of the street, lane or section of the town and the

number of house (if any) should be given preferably with postal zonal code number.

Rule 42. (1) With their applications for issue of processes, parties shall file process-fees, wherever necessary under the law, and the required number of printed Forms filled up in a bold, clear and easily legible handwriting leaving the blank space for hours and date of appearance.

(2) The parties or their Advocates shall sign legibly all processes, notices etc., in the left bottom corner and will be held responsible for the accuracy or otherwise of the information entered therein.

(3) When orders for the issue of processes are passed by the Court, the date fixed for appearance will be inserted in the Forms and the processes will be dated by an officer of the court before they are signed.

(4) The Presiding Officer may, in his discretion, direct in ay particular case, that the Forms of processes be entirely filled up in the office of the Court.

Rule 43. (1) In all cases where any process and document are required by law to be signed, the same should be signed by the Presiding Officer stating the name distinctly and legibly over his official seal.

(2) Every process including summons issued by the Court of a Judicial Magistrate shall be signed and sealed by the Presiding Officer of the Court concerned or by any other Judicial Magistrate specified by the Chief Judicial Magistrate in that behalf.

(3) Every process including summons issued by the Court of a Metropolitan Magistrate shall be signed and sealed by the Presiding

Officer of such Court or by any other Metropolitan Magistrate specified by the Chief Metropolitan Magistrate in that behalf.

Note. Judicial Officers are reminded that in the case of all documents required by law to be signed, the impression of stamp bearing the Officer's name only is insufficient.

Rule 44. (1) Every warrant of arrest issued by a Judicial Magistrate shall be in writing and signed by him under his own hand. In the case of a Bench of Judicial Magistrates, the warrant is to be signed by any member of such Bench. In all cases, the warrant so signed shall bear the seal of the Presiding Officer of the Court.

(2) If a warrant is to be executed under sub-section (1) of section 83 of the Code outside the local jurisdiction of the Court issuing it, the same shall be forwarded to any Executive Magistrate or District Superintendent of Police or Commissioner or Police within the local limits of whose jurisdiction it is to be executed and not to the Chief Judicial Magistrate or to the Chief Metropolitan Magistrate, as the case may be.

(3) The Court issuing a warrant under sub-rule (1) shall invariably forward, along with the warrant the substance of the information against the person to be arrested together with such other documents as may be sufficient to enable such Magistrate or the District Superintendent of Police or the Police Commissioner, as the case may be, acting under section 86 of the Code to decide whether bail should or should not be granted to the person.

2. Service and Execution of Processes

Rule 45. (1) Every summons to a Police Officer shall be served through the Superintendent of Police in a District or the Police Commissioner in a Metropolitan area or the Officer-in-Charge of a Police Station in which such officer is posted.

Note. In the case of any officer of the Government Railway Police, a summons should be served through the Officer-in-Charge of the Government Railway Police Station concerned.

(2) When Jail or other Departmental Officers of the Government who reside in the station are summoned as witnesses, processes should be issued to them only when they are actually wanted.

Rule 46. (1) A summons to a Medical Officer shall be served through the Civil Surgeon of the District or the concerned authority of the Health Directorate of the Health Ministry or the Chief Medical Officer of the Organization in order to enable the latter to make arrangement for performance of medical duties during his absence.

(2) A Summons to a Medical Officer posted outside the district headquarters which does not require any formal permission to leave the station shall be sent to him directly and not through his higher authority as stated in sub-rule (1).

Rule 47. (1) A summons to a Judicial Officer may be served through Metropolitan Session Judge in a Metropolitan area or the Sessions Judge in a District, in which he is posted and the latter shall permit him to attend the

Court concerned after making arrangements for the performance of his duties during his absence.

Provided that such a summons may also be served through the Registrar of the High Court Division in a case where the present place of posting of the High Court Division in a case where the present place of posting of the officer concerned is not known to the issuing Court.

Rule 48. Summonses to the Members of Parliament shall be served directly on the Members concerned outside the precincts of the Parliament, that is, at their residences or some other places and no attempt shall be made to serve such summonses through the Speaker to the Parliament or through the Parliament Secretariat.

Rule 49. A summons to be served upon an officer or a soldier in the Armed Forces shall be forwarded to the Officer Commanding or other competent authority, if any, for service and return and sufficient time should always be given in such case to make arrangement for the release of the witness summoned. Whenever it is necessary to serve the summons by a process-server, he shall be instructed to take it under cover to the officer in command of the regiment or detachment with which the witness may be serving, and to apply for his assistance in serving it. With this assistance, the process-server shall then proceed to serve the process and shall make his return directly to the Court.

Rule 50. An attempt should be made by all Courts to have the officers who are about to leave the station on leave or transfer examined in any pending case in which they are material witnesses before their

departure, if the same can be done without violation of any important rule of procedure.

Rule 51. The witnesses brought under arrest should be dealt with not as criminals, but simply as persons arrested under civil processes.

Rule 52. Application for the employment of the service of the Government Examiner including Chemical Examiner and Expert or a Criminal Investigation Agency of any questioned document in criminal proceedings shall be made to the Presiding Officer of the Court, who may send directly to the Government Examiner or the Criminal Investigation Agency, as the case may be, for examination of the said questioned document.

Not. Such application shall ordinarily be accepted, but may be refused at the direction of the Court assigning reasons therefore.

Rule 53. (1) The signature required under sub-section (2) of section 69 of the Code, should, in case of an illiterate person, be held to mean his thumb-impression, witnessed by somebody before whom it is given.

(2) If the person on whom the summons is to be served refuses to sign or give his thumb-impression on the original process but wants to retain the copy, it shall not be made over to him but shall be served in the manner stated in sub-rule (4).

(3) In case the person is not known to the serving officer, the name and address of the person of whose identification service is effected shall be stated in the report.

(4) If the person refuses to receive the process, he shall be informed verbally of its nature and a copy of the process shall be affixed to the door

of his residence in presence of at least two witnesses whose names and addresses shall be mentioned in the report.

(5) If after due and reasonable enquiry, the person is not found at his address, the service shall be effected on an adult male member of his family in the manner indicated in this rule.

Rule 54. If the person addressed in the process has a place or residence, but neither he nor any male member of his family can be found, a copy of the process shall be affixed to the outer door of his residence in presence of at least two witnesses whose names and addresses shall be recorded in the report.

Rule 55. (1) If the person addressed has no place of residence and he cannot be found, this fact should be stated in the report with the names and addresses of at least two persons from whom the facts are ascertained.

(2) If the person addressed has ceased to live at the place, his present address, if procurable, should be reported.

(3) If the person addressed is dead, the date of his death, and the source of knowledge shall be stated in the report and the process shall be returned unserved.

Rule 56. If the issuing Court directs that service shall be effected in any manner other than that prescribed in the foregoing rules, the serving-officer shall comply with the directions of the Court and shall state in the report the date, time, place and manner of service and the names and addresses of two persons present whose signature or thumb impressions, as the case may be, should be taken on the back of the original process.

Rule 57. If the process is addressed to more than one person, the report shall describe the manner of service on each person.

Rule 58. (1) The report of service shall be recorded by the serving-officer on the back of the original process station (a) the date, time and place of service, (b) the manner of service, and (c) the name and address of at least one person present at the time of service.

(2) The dated signature and designation of the serving-officer shall be appended to the report.

Rule 59. (1) When any document or parcel or thing in the custody of the Postal or Telegraphy Authorities is wanted under sub-section (1) of section 95 of the Code for the purposes of investigation, inquiry, trial or other proceeding etc., the Magistrate or the Court concerned should depute an officer to the office, where such document, parcel or thing may be, and direct in writing the Postal or Telegraph Authorities to make over with a not the document etc., to the officer so deputed, who will then be in a position to prove that the same was produced from the custody of the Postal or Telegraph Authorities.

(2) The attendance of Telegraph Office staff should be required only if they are in a position to prove the handwriting or the message or otherwise identify the writer or person who handed if for transmission or to give material evidence on other relevant matters which cannot be proved from other sources.

(3) A summons from a Court of Criminal Jurisdiction to produce any of the record of a Post Office, or a certified extract or a copy of any of such record, must be complied with. The receipt of such a summons, and such particulars as are known to the Postmaster regarding the case, should be at once reported to the Postmaster-General, in case he should see fit to

raise any objection in Court under section 123 or section 124 of the Evidence Act, 1872, (Act No. 1 of 1872) to the production of any of the records. When any journal or other record of a Post Office is produced in the Court and admitted in evidence, the officer producing it should ask the Court to direct that only such portions of the record as may be required by the Court, shall be disclosed.

Rule 60. Summonses to employees in Government offices, Public Bodies, Companies and Firms shall be served through their respective departmental heads or the Secretaries of the respective Administrative Ministries.

Rule 61. Whenever production of a document or a certified copy thereof in the custody of the Parliament or a Committee thereof and/or evidence of a Officer in the Secretariat of the Parliament or a Committee thereof is required in a case, a letter of request in the prescribed Form No.(P) 14 shall be issued instead of a summons in the ordinary form.

Note. In issuing a letter of request in accordance with the above rule, the provisions of sub-section (2) of section 78 of the Evidence Act, 1872, should be borne in mind so as to ensure that the Parliament is moved only when unpublished documents in its custody are required in evidence.

Rule 62. Processes issued upon the staff of Foreign Diplomatic Missions are to be served through the concerned desk of the Ministry of Foreign Affairs following the Rules of Procedure.

Rule 63. In all appropriate cases, where the summons to a witness can be most expeditiously served by registered post, the Court may in addition to or simultaneously direct a copy of the summons to be served by

a registered post addressed to the witness at the place where he ordinarily resides or carries on business or personally works for gain.

3. Service of Processes through Police

Rule 64. (1) All processes to be served by the Police should ordinarily be collected from the Court by the Court Police Officer on duty and sent to the Officer-in-Charge of the Police Station within whose jurisdiction the processes are to be served.

Provided that the Court may send a Warrant of Arrest for execution directly to a Police Officer concerned.

(2) On receipt of the of the process, the Officer-in-Charge of a Police Station shall cause the same to be entered in the Register in Form No. (R) 12 immediately.

(3) The Register in Form No. (R) 12 shall be shown to the Chief Judicial Magistrate in the district or the Chief Metropolitan Magistrate in the Metropolitan area whenever the Chief Judicial Magistrate or the Chief Metropolitan Magistrate wants inspect the same and record any remark on the Register in respect of any delay or negligence noticed by him in the matter of service or execution of a process.

Rule 65. (1) All processes sent to the Police for service or execution shall be served or executed within the time fixed by the Court and if for any reason, the same is not possible, the processes should be returned to the Court with short notes stating the cause for delay before the date fixed so that those can be re-issued fixing new dates.

(2) In no case, the Police should retain a process without service or execution beyond the date fixed without informing the Court of the reason for no-service or no-execution of the process concerned.

(3) The Superintendent of Police or the Commissioner of Police, as the case may be, shall make necessary arrangements so that processes sent to the Police for service or execution are served or executed with utmost expedition and may for this purpose make and order for special arrangement for serving and executing processes in each Police Station.

Rule 66. (1) All cases of avoidable delay or willful default in the matter of service or execution of processes shall be reported by the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, to the concerned controlling authority of the incumbent Police or the Superintendent of Police or the Commissioner of Police or such other Officer, not below the rank of an Assistant Superintendent of Police, as may be specified by such Superintendent of Police or Commissioner of Police.

(2) All cases recorded under sub-rule (1) shall be investigated by the Superintendent of Police or the Commissioner of Police or by the Officers specified by him under the said sub-rule and if any gross negligence is found in the matter of compliance with the Court's order, necessary disciplinary action should be taken against the persons(s) responsible for such negligence by the concerned Police Authorities and the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall be informed of the action so taken.

Rule 67. The Superintendent of Police in a district or the Commissioner of Police in a Metropolitan area, as the case may be, shall

from time to time issue necessary instructions to all the Police Officers entrusted with the service or execution of processes so that all processes issued by the Court are promptly and expeditiously served or executed in order to avoid unnecessary adjournments by the Courts concerned in all cases.

Rule 68. The Officer-in-Charge of the Police Station shall send a pending list of all processes, recei9ved by him for service or execution during the month but remaining unserved or unexecuted, to the Chief Judicial Magistrate in a district or the Chief Metropolitan Magistrate in a Metropolitan area, stating the reasons for their non-service or non-execution.

Rule 69. Apart from the above mentioned rules, the rules applicable to the service of processes by the process-server shall apply to the processes to be served by the Police.

Rule 70. When Government Officers residing at the station are to be summoned, they shall be summoned only when they are actually wanted in the inquiry or trial of a case.

Rule 71. When Government Servants appear as witnesses, Courts shall, as far as possible, give precedence in the matter of hearing cases in which they appear, and give preference, in the order in which witnesses are examined, to such witnesses and discharge them after recording their evidence, if it be of a formal nature.

CHAPTER IV

COGNIZANCE OF OFFENCES

1. Police File

Rule 72. In these rules, unless the context otherwise requires-

(a) 'Court Police Officer' means such police officer or staff as may be allotted to a Court for presenting the police file or for assisting the Court in the performance of its functions.

(b) "Police file" means all the documents prepared and maintained by the Police in connection with the prevention or investigation of an offence against accused person(s) under the provisions of the Code or any other law and presented before a Magistrate for orders.

Rule 73. (1) In a district, subject to any rule made by the Government or any special order made by the Chef Judicial Magistrate under sub-section (2) of section 17 of the Code, Police file shall be put up before the Chief Judicial Magistrate or the Additional Chief Judicial Magistrate or the Senior Judicial Magistrate or the Judicial Magistrate of the station by the Court police officer concerned.

(2) In a Metropolitan area, the Police file shall be put up before the Chief Metropolitan Magistrate or, subject to any rule made by the Government or any special order made by his, before the Additional Chief Metropolitan Magistrate or the Metropolitan Magistrate by the concerned Court Police Officer.

(3) The Police file shall be taken up at a fixed hour on every day according to the convenience of the Magistrate.

(4) The hours required for the disposal of Police file shall be treated as Judicial work and those shall be noticed in the Court's diary.

Note. Time spent in dealing with the Police files shall be noted in the remark's column of the diary.

Rule 74. (1) Orders for police remand (detention in the custody of police) under section 167 of the Code shall be made after exercising sound judicial discretion and such orders shall be made in presence of the accused and after perusing the entries in the diary and hearing any objection, if any, he may have to make to the proposed order.

(2) The grounds upon which the remand is needed shall be distinctly stated in the application to the Magistrate.

(3) When further detention is considered necessary, the remand should be for the shortest possible period depending on the nature of each case.

(4) Application for remand to police custody shall be carefully scrutinized and in general should be granted if it is shown that suck custody is necessary for the identification of any person, the discovery or identification of any property or for any special reason.

(5) Application for remand to police custody of an accused who has failed to make the expected confession or statement shall not, as a general rule, be granted.

(6) In all cases when the Magistrate authorizes the detention of an accused in police custody, he shall record his reason for so doing and when any Magistrate other than the chief Judicial Magistrate or the Chief Metropolitan Magistrate makes such an order, he shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be.

(7) The Magistrates shall not pass orders remanding under-trial prisoners to custody unless such prisoners have been actually produced before them on due dates.

Rule 75. (1) When the Police file is presented before the Magistrate, the Officer-in-Charge of the Police station shall forthwith transmit to him a copy of the entries in the diary as required under sub-section (1) of section 167 of the Code and the Magistrate in all cases shall insist on transmitting such copy by the concerned Police Officer.

(2) The Magistrate shall impress upon the police to complete investigation of an offence as expeditiously as possible and on no account, the period of detention in police custody shall exceed 15 days in the whole in a case.

(3) Whenever a person is arrested and brought before the Magistrate, the Magistrate should be satisfied that there has been no unauthorized detention beyond 24 hours as provided in section 61 of the Code and if there be any complaint to that effect against the police, he shall make an enquiry into the matter and take such action as may be deemed necessary.

(4) The accused persons on bail shall file haziras (attendance) in court by the time fixed under rule 23 on the date of their appearance and they shall be required to remain present till the court verifies their presence physically, in default, their bail is liable to be cancelled.

(5) The production of the accused persons from jail custody shall, unless the Court otherwise directs by any general or special order, be made by 9.30 a.m. everyday.

Rule 76. (1) In any case which does not result in submission of charge sheet, the police shall submit final report before the Magistrate.

(2) In the final report, the investigating officer shall furnish a clear statement of the case and of the materials collected by him with the reasons for not sending up any person for trial.

(3) The investigating officer shall also suggest with reasons how the case may be entered by the Magistrate in the General Register for statistical purposes, such as ‘true’, ‘false’ or ‘mistake of fact’ or ‘mistake of law’ or ‘non-cognizable’, etc.

(4) On receipt of the final report, the Magistrate may accept the Police finding and decide the case discharging the accused accordingly, or may, under sub-section (3) of section 156 of the Code, order further investigation into the case on specified points without accepting the final report, or may take cognizance under clause (b) of sub-section (1) of section 190 of Code on such final report if materials are available in the case docket warranting prosecution. If the persons accused have not already been arrested, the Magistrate shall issue processes against them under section 204 of the Code and require the investigating officer to furnish the names and addresses of the witnesses, if necessary.

Note. The Magistrate shall follow the guide-lines spelt out in the case of Abdus Salam Master Vs. The State reported in 36 DLR (AD) 58 and Shamsun Nahar Vs. The State 4 BLD 206 in dealing with police report.

Rule 77. (1) Whenever any Test Identification Parade is conducted by a Magistrate, it must be ensured that before commencement of the identification proceedings, the identifying witnesses are kept in charge of a Court Peon or any other person not being a Police Officer, at such distance wherefrom the identifying witnesses have no chance of seeing the suspects.

(2) The suspected person should, if possible, be parade along with 8 to 10 persons or if there are more than one suspect, they should be mixed up and paraded along with as many as 18 to 25 persons, similarly dressed having the same religion and social status as far as practicable. However,

on no account, more than 3 suspects should be placed at the Test Identification Parade at a time.

(3) Each identifying witness should be brought up singly in charge of the Magistrate's Orderly or some other person, not being a police officer, to identity the accused if he is able to do so and the identification of such witness shall be conducted out of sight and hearing of other witnesses.

(4) If there is any fear that the identifying witness may be subjected to threats and injuries, should he become known to the suspects or to their friend, the witness should be allowed to view the persons paraded from a place where he himself cannot be seen, as for instance, through a window or an opening in a door or a wall.

(5) When the Magistrate conduction the identification parade has satisfied himself that no communication between the police and the witness was possible, he should give a certificate to that effect.

(6) The Test Identification Parade shall, whenever circumstances permit, be held inside the jail; provided, however, that when it is not so possible, it may be held in the Court room beyond the Court hours.

Rule 78. (1) Whenever any confession is recorded by a Magistrate, it should be in Form No. (M) 45 done with due care and deliberation, the matter being viewed not as a distasteful and minor appendage or addition to the normal functions of a Magistrate, but as one which is of consequence to the confessing accused, his co-accused and the courts responsible for the administration of criminal justice.

(2) The provisions of sections 24 to 28 of the Evidence Act, 1872, and of sections 164 and 364 of the Code should be carefully studied and every Endeavour should be made not to record a confession perfunctorily and hastily.

Note. In this respect see the decision in the case of the State Vs. Lalu Meah reported in 39 DLR (AD) 117.

Rule 79. (1) Confessions are to be recorded during the court hours in the Magistrate's Court or other room in a building ordinarily used as a Court house unless, the Magistrate, for reasons to be recorded by him in writing, certifies that compliance with these conditions is impracticable or that he is satisfied that the ends of justice would be liable to be defeated thereby.

(2) If the confession is recorded in a room which is ordinarily open to the public, the Magistrate may, if he thinks fit, order that the public generally or any particular person shall not have access to, or remain in the room, used for the purpose.

Note. The recording of a confession in a Magistrate's residence or at any place other than the Magistrate's Court shall be the exception and not the rule and on weekly or gazetted holidays, when it is necessary to record a confession, the Magistrate shall proceed to his Court for the purpose after making all arrangements for the production of the accused before him in that Court.

(3) When the accused is produced, the Magistrate should ascertain when and where the alleged offence was committed and by questioning the accused, should further ascertain when and where the accused was first placed under Police observation, control or arrest.

(4) Magistrates shall not, except under the circumstances which render delay impossible, record the confession of an accused person immediately the police bring him into Court and the accused shall be given sufficient time for reflection during which period he shall not be in contact

with any police personnel and shall not be permitted to hold conversation with any person.

(5) During examination of the accused and recording of his statement, no co-accused and police personnel shall remain present.

(6) The Magistrate should give the explanations required by sections 164 and 364 of the Code and other explanations in writing in a very careful manner, so as to ensure that they are fully understood.

(7) (a) The Magistrate should not proceed to record the statement of the accused unless and until he has reason, upon questioning him and observing his demeanour, to believe that the accused is ready to make a statement voluntarily.

(b) If any complaint of ill-treatment by the Police is made, the Magistrate should take cognizance of the same and any indication of use of improper or undue pressure should be investigated at once.

(c) The questioning of an accused person in order to discover if the making of a confession is voluntary should not be taken as a mere formality and the Magistrate should apply his mind judicially and Endeavour to base his finding upon definite premises and grounds.

(8) While carefully avoiding anything in the nature of cross-examination, the Magistrate should Endeavour to record the statement of an accused person in the fullest detail, and as far as possible, in the language of the accused; and properly put such questions, not being leading questions, as may be necessary to enable the accused to state all that he desires to state and to enable the Magistrate clearly to understand the meaning of his statement.

Note. A statement of a witness, if necessary, to be recorded under section 164 of the Code of Criminal Procedure, 1898, the Magistrate

should record it in the manner prescribed for recording evidence of a witness.

Rule 80. The Sessions Judge in respect of each Court, the Chief Judicial Magistrate in respect of each Judicial Magistrate's Court and the Chief Metropolitan Magistrate in respect of each Metropolitan Magistrate's Court shall fix the strength of the Court Police Officers required for each Court in consultation with the Superintendent of Police or the Commissioner of Police in the beginning of the year and the Superintendent of Police or, as the case may be, the Commissioner of Police, shall allot the required number of Police Personnel and Officers for each such Court.

Rule 81. (1) There shall be adequate arrangements for lock-up at each station for accommodating the under-trial prisoners.

(2) The Police lock-up shall not be at a long distance from the trying Courts and there should be separate lock-up for male and female under-trial prisoners.

(3) In the Judicial Magistracy, one Magistrate selected by the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, as the case may be, shall remain in charge of the lock-up to physically verify and see to the security measures and hygienic arrangements taken in the lock-up.

(4) The Police lock-up shall always be kept clean and tidy with necessary sanitary arrangements under the supervision of the Magistrate.

Rule 82. (1) There shall be a suitable cage dock for the accused in every court.

(2) The cage dock shall be so made that no prisoner can escape there from easily and there shall be adequate police guards to prevent the prisoners from escaping from the dock.

Rule 83. (1) Remand orders relating to police custody on holidays in the district shall be made by the Chief Judicial Magistrate or the Additional Chief Judicial Magistrates or the Senior Judicial Magistrate of the station or by some other Magistrates nominated and approved by the Chief Judicial Magistrate on the basis of a roster.

(2) In Metropolitan areas, remand orders on holidays shall be made by the Chief Metropolitan Magistrates or the Additional Chief Metropolitan Magistrates or by any other Metropolitan Magistrates nominated and approved by the Chief Metropolitan Magistrates on the basis of a roster.

Rule 84. The charges for the diet and travelling expenses of the under-trial prisoners and the carriage of alamats in connection with the trial of criminal cases in all Courts including the Sessions Court shall be paid by the Magistrate concerned out of the appropriate head of the budget allocation.

Note 1. For the purpose of this rule, a person shall be treated as an under-trial prisoner from the time he is put in the Police Station lock-up in connection with any offence whatsoever.

Note 2. Expenses for the production of prisoners before the Judicial Magistrate or the Sessions Courts from the Police Custody or the Jail Custody and other allied expenses in connection with a case are to be paid by the Police and the Jail Superintendent from their respective budget allocations.

Rule 85. (1) The Superintendent of Police being the immediate head of the Police force in a district or the Police Commissioner being the immediate head of the Police force in a Metropolitan area, is fully responsible for the proper and efficient functioning of criminal administration in their respective jurisdictions under the provisions of the Code.

(2) Any willful disobedience to the Court's order or any negligence in discharge of duty on the part of a Police Officer under the Code shall be forthwith brought to the notice of the Superintendent of Police or the Police Commissioner by the Chief Judicial Magistrate of the district or the Chief Metropolitan Magistrate in the Metropolitan area, as the case may be, for necessary action and the concerned authority of the Police shall take action thereon as deemed fit and proper and render all possible assistance to the Magistrate for due discharge of their duties under the Code.

(3) The Chief Judicial Magistrate in a district or the Chief Metropolitan Magistrate in a Metropolitan area shall have the authority to inspect any Police Station within their respective jurisdictions to verify-

(a) if the processes are being promptly and duly served;

(b) if the Magistrate's orders directed to the Police under the Code are being properly carried out; and

(c) if the Police Officers are discharging their functions satisfactorily under the Code while presenting the Police file before the Magistrate.

(4) After such inspection, the Chief Judicial Magistrate shall send a report to the Superintendent of Police Commissioner in a Metropolitan Magistrate to the Metropolitan Police Commissioner in a Metropolitan area making comments on the performance of the concerned Police Officers. A

copy of the said report shall also be forwarded to the concerned Sessions Judge.

2. Complaint

Rule 86. (1) Complaints in writing shall be received by the Bench Assistant (except) on holidays) till 9:30 a.m. and no petition of complaint shall be entertained after that hour without the permission of the Magistrate.

(2) On receiving such complaints, the Bench Assistant will affix Seal with date and then place before the Magistrate as soon as possible for his dated initials.

(3) The Magistrate shall proceed to deal with such complaints only, or such other complaints in addition, as he may have allowed to be filed, out of time as stated in sub-rule (1).

(4) Complaints that cannot be heard on the same day may, under the orders of the Magistrate, be put up on the following day.

Rule 87. (1) Complaints shall be immediately numbered in order of their receipt and entered serially in the Register to be kept for the purpose in Form No. (R) 2 (i).

(2) The entries shall be signed by the Magistrate in course of the day.

Rule 88. (1) Subject to any rule made by the Government or any special order by the Chief Judicial Magistrate under sub-section (2) of section 17 of the Code, complaints shall be filed before the Chief Judicial Magistrate or the Additional Chief Judicial Magistrate on any Judicial Magistrate of the station empowered in this behalf.

(2) In the Metropolitan Magistracy, subject to any rule made by the Government or any special order by the Chief Metropolitan Magistrate,

complaints shall be filed before the Chief Metropolitan Magistrate or before the Additional Chief Metropolitan Magistrate or any other Metropolitan Magistrate empowered in this behalf.

Rule 89. (1) A Magistrate taking cognizance of an offence on complaint shall, wherever necessary under the Code, examine upon oath the complainant and the witnesses present, if any, and it shall be clearly stated in the order-sheet.

(2) The substance of the examination of witnesses present, if any, shall be recorded instead of recording such remarks as "corroborates the complainant" or "corroborates the other witnesses" etc.

(3) The examination of the complainant and his witnesses, if any, shall not be taken to be a mere formality and they shall be examined intelligently viva voce in open Court in such manner so as to enable the Magistrate to determine whether there is sufficient ground for proceeding. The substance of such examination shall be reduced to writing and signed by the complainant or his witnesses, if any, so examined and also by the Magistrate.

(4) A Magistrate shall not be engaged in any other business whilst the examination of a complainant or a witness is in progress. Such examination shall not be interrupted for the purpose of enabling the Magistrate to attend to any other business, unless such business is of an urgent nature.

Rule 90. (1) When a Magistrate wants to postpone the issue of process against the accused under section 202 of the Code, he may-

(a) either inquire into the case himself, or direct any other subordinate Magistrate to inquire there into,

(a) direct an investigation to be made by a Police Officer or by such other person as he thinks fit.

(2) Whenever any inquiry or investigation is directed by a Magistrate under sub-section (1) of section 202 of the Code, he shall fix a date for the submission of the report of the inquiry or investigation, as the case may be.

Note. Sections 202 and 203 of the Code do not contemplate a Magistrate calling upon an accused person to show cause why process should no be issued against him. Such procedure is inconstant with the scheme of the Code and is improper and irregular. The Magistrate should not make the accused a party to the proceedings before he has decided to issue and does issue process against him.

Rule 91. Cases in which the Magistrate takes cognizance of the offences under clause (c) of sub-section (1) of section 190 of the Code shall be entered in the Register of Miscellaneous Cases in Form No. (R) 2 (iii).

3. Transfer of cases to the Court of Session

Rule 92. (1) A Magistrate sending the case to the Court of Session shall notify the same in Form No. (M) 7 without delay to the Court stating, the total period of detention, if any, of the accused in custody up to the date of transferring the case, whether the accused is defended or not and whether he has been released on bail or remanded to custody pending trial.

(2) The Magistrate shall send to the Court of Session the record of the case and all documents including articles, if any, which are to be produced in evidence.

(3) The Magistrate shall procure and send a copy of the case-diary along with the case-records and necessary documents and articles as mentioned in section 205C of the Code to the Court of Session.

(4) The Magistrate shall notify the Public Prosecutor of the fact of the transfer of the case to the Court of Session and thereafter the Public Prosecutor concerned shall receive the copy of the case-diary from the Court of Session and acknowledge its receipt therefrom.

(5) In a complaint case, if it appears to the Magistrate in course of inquiry under section 202 of the Code that an investigation by the Police is going on in relation to the same occurrence, he shall stay the proceedings of such inquiry in the complaint case and call for the police report from the police officer conducting the investigation. If the police report under section 173 of the Code is made and on such police report cognizance of any offence is taken by the Magistrate against any person, who is an accused in the complaint case as well, the Magistrate shall inquire into or try together the complaint case and the case arising out of police report, as if both the cases are instituted on the police report.

(6) If the police report does not relate to ay accused of the complaint case, the Magistrate shall proceed with the inquiry or trial of the complaint case which was stayed earlier, and both the complaint case and police case shall be tried simultaneously by the same Court.

Note. In this respect, the Magistrate should follow the provisions of section 205D of the Code of Criminal Procedure, 1898.

CHAPTER V

TRIAL BEFORE A COURT OF SESSION

Rule 93. When a case is sent by a Magistrate to the Court of Session, he shall send a copy of the bail bond to the Sessions Court in case the accused is released on bail and in case the accused is not on bail, he should be as usual forwarded fixing a date for his production to the Court of Session.

Rule 94. (1) If the Sessions Court is of the opinion that there is ground for presuming that the accused has committed the offence which is not exclusively triable by it and if the said Court accordingly decides to transfer the case for trial to the Chief Judicial Magistrate, Chief Metropolitan Magistrate, any other Magistrate, Court or Tribunal, as the case may be, it shall record and order giving reasons for its decision and send down the record accordingly.

(2) The accused shall, if on bail, be directed to surrender before the aforesaid Magistrates, Court or Tribunal, as the case may be, within 7 days from the date of receipt of the records by them or it.

(3) If the accused is in custody, he shall be directed to be produced in custody before the Chief Judicial Magistrate, the Chief Metropolitan Magistrate, any other Magistrate, Court or Tribunal, as the case may be, within the period as indicated in sub-rule (2).

Rule 95. (1) When there is unusually long interval between the apprehension or appearance of the accused persons or the compliance with the requirements under sections 87, 88 & 339B of the Code and the sending of the record under section 205C of the Code to the Court of Session, the Magistrate taking cognizance shall submit to the Court of

Session along with the order of sending record, a clear and full explanation of delay covering the entire period.

If there by any larches or negligence on the part of the police, a copy of the aforesaid order shall be communicated to the concerned Superintendent of Police to obtain an explanation from the defaulting Police Officer and such explanation shall be sent to the Court of Session. If the cognizance taking Magistrate is not the Chief Judicial Magistrate, a copy of such explanation must be sent to the Chief Judicial Magistrate concerned.

(2) In the case of a Metropolitan Magistrate, the explanation of delay as indicated in sub-rule (1) shall be submitted to the concerned Court of Session along with the order of sending record, a clear and full explanation of delay covering the entire period. If there be any laches or negligence on the part of the police, a copy of the aforesaid order shall be communicated to the concerned Commissioner of Police to obtain an explanation from the defaulting Police Officer and such explanation shall be sent to the Court of Session. If the cognizance taking Metropolitan Magistrate is not the Chief Metropolitan Magistrate, then a copy of such explanation must also be sent to the Chief Metropolitan Magistrate concerned.

(3) On receipt of the copy of the explanation as above, the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall consider the explanation referred to sub-rules (1) or (2) and apportion the blame, if any, between the Police and the Magistrate and forward the same to the Sessions Judge with such remarks as he may think fit to remedy the faults indicated therein.

(4) The Sessions Judge shall, in turn, scrutinize the explanation and transmit the same to the High Court Division along with the Quarterly Sessions Statement in Form No. (S) 6 after the disposal of the case, with

his opinion as to whether the delay was avoidable or justified, leaving it to the High Court Division to take necessary actions, if any.

(5) If the Magistrate be the Chief Judicial Magistrate or the Additional Chief Judicial Magistrate or the Chief Metropolitan Magistrate or the Additional Chief Metropolitan Magistrate, the explanation of delay referred to in the above sub-rules shall be sent directly to the Sessions Judge, who shall report the same to the High Court Division along with the Quarterly Sessions Statement with such remarks as he may deem necessary for taking actions against the persons liable for such delay.

Rule 96. (1) The summons to the witnesses shall be sent by the Sessions Court directly to the Police for service or shall be served by an officer of the Court or other public servant indicating the dates of their attendance therein. For this purpose, the concerned Assistant shall write up processes in duplicate and the same shall be signed by the Presiding Judge or any Assistant authorized by him.

(2) Notwithstanding anything contained in sub-rule (1), if the Sessions Court thinks that the summons may be more conveniently served through the Chief Metropolitan Magistrate or the Chief Judicial Magistrate or any other Judicial Magistrate, it can order such service through such Magistrate.

(3) When a summons is received for service under sub-rule (2), it shall be the responsibility of the Magistrate to make necessary arrangement to get the same served on the witness as expeditiously as possible.

(4) It shall be the duty of the Police to serve promptly and within time all summonses received for service from the Sessions Court, either directly or through the Magistrate.

Rule 97. (1) The Court shall take all possible steps for the speedy disposal of Sessions cases received by it which should be heard from day to day consecutively and for this purpose, the hearing of civil matters may be postponed.

(2) The dated of trial of Sessions cases shall generally be fixed chronologically in the order of the dates of receipt of the records sent by the Magistrates, but the Court can fix the date of trial of case involving offence(s) of graver nature earlier than other cases involving relatively less grave offence(s).

(3) The Sessions Judges shall not too lightly postpone or adjourn the trial specially recording of the testimony of witnesses assigning fancy or flimsy causes. It should be always borne in mind that further detention of an accused person in jail for a longer period is ipso facto no trivial harassment and is only justified when there is apparently a good cause for adjournment and when the Judge is satisfied that, for ends of justice, it is necessary to postpone the trial.

Rule 98. The Sessions Judge, Tribunal Judge or any other Judge, as the case may be, shall acknowledge by post or fax or an express telegram the receipt of the High Court Division's order passing, confirming, altering or setting aside the sentence of death passed against the accused.

Rule 99. (1) The Sessions Judge, Tribunal Judge or any other Judge, as the case may be, shall communicate to the prisoner every order of confirmation, reversal or commutation of sentence of death through the concerned Superintendent of the Jail within twenty-four hours of the receipt of the order in the concerned Court or the Tribunal.

(2) The Sessions Judge, Tribunal Judge or any other Judge, as the case may be, shall, immediately on receipt of the order of the High Court Division passing or confirming the sentence of death, issue a warrant for execution in Form No. XXXV of the Schedule V to the Code and shall fix therein the date of execution after 21 days but not beyond 28 days from the date of receipt of such order.

(3) The Sessions Judge, Tribunal Judge or any other Judge shall, immediately on receipt of the order of the High Court Division sentencing the accused to suffer imprisonment of any description on an appeal or otherwise, issue processes to secure his/their arrest and thereafter commit him/them to the jail concerned.

Rule 100. All communications from witnesses regarding their attendance in the Court of Session shall be addressed to the Presiding Judge through the Public Prosecutor or the defense lawyer, as the case may be, who should submit them with their comments before the Sessions Judge for orders and the orders passed thereon shall be communicated to the witnesses through the same channel.

CHAPTER VI

APPEAL, REFERENCE AND REVISION

1. Appeal

Rule 101. (1) If the convict in jail intends to prefer appeal against the sentence or order passed on a trial held by a Sessions Judge or an Additional Sessions Judge or on a trial held by any other Court or Tribunal in which a sentence of imprisonment for more than 5 years has been passed, he or it shall present the same to the Officer-in-Charge of the Jail under section 420 of the Code and it shall be forwarded by him directly to the Register of the High Court Division, with a letter in Form No. (M) 15, a copy of the letter being simultaneously given to the Judge whose sentence or order is appealed against.

(2) Similar petitions of appeal from jail against the sentence or orders passed by any Judge or Court or Tribunal other than those mentioned in sub-rule (1) shall be forwarded by the Officer-in-Charge of the Jail to the Sessions Judge or the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, with a letter in Form No. (M) 15 and a copy of the letter being simultaneously sent to the Judge or the Court or the Tribunal whose sentence or order is appealed against.

Note 1. The heading of such petition of appeal shall be in Form No. (M) 9.

Note 2. The Sessions Judge or the Additional Sessions Judge or any other Judge including the Tribunal Judge need not send the record in such case to the High Court Division until he is requested to do so upon the admission of the appeal.

Rule 102. (1) The notice contemplated in section 422 of the Code shall be sent by the Sessions Judge in Form No (M)11 to the appellant or

his Advocate and to such of the Officer appointed by the Government in this behalf intimating the time and place of hearing of the appeal.

(2) (a) A similar notice in Form No. (M) 11 shall also be given by the Sessions Judge to the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, in respect of an appeal against an order of conviction passed by him or any Magistrate subordinate to him and the record of the case may also be called for, if necessary.

(b) Where the order of conviction has been passed by a Magistrate at an outlying station, a copy of the notice referred to in clause (a) shall be sent to the concerned Magistrate and also to the Chief Judicial Magistrate.

(c) If the appeal be against an order passed by an Executive Magistrate, the notice in Form No. (M) 11 shall be sent to the Executive Magistrate and also to the District Magistrate concerned.

Rule 103. (1) When a Court of Appeal directs release of a prisoner on granting bail in a pending appeal, such Court shall ordinarily send the order to the Court which passed the order under appeal and the concerned Presiding Judge or Magistrate, on acceptance of the bail bond, shall pass necessary order of release accordingly.

(2) As soon as the prisoner is released on bail, the fact of his release and the date of his release shall be reported to the Court of Appeal which shall be kept with the appellate record.

(3) If the prisoner is unable to furnish the bail bond as required, the Court receiving the order for his release on bail shall forthwith return the same to the Court of Appeal which issued it with an endorsement thereon to the effect that the prisoner is unable to furnish the same.

Note. The procedure detailed in this rule regarding the release of a prisoner on bail pending hearing of an appeal shall also apply mutatis mutandis in the case of the release of a prisoner on bail by a Revisional Court.

Rule 104. When an appeal has been disposed of by the Appellate Court, a copy of its judgment and orders shall be attached to the record of the original Court and returned to it therewith.

Rule 105. (1) When a sentence is set aside on appeal or otherwise, the concerned trial Court shall issue an order of release in Form No. (P) 53 and send the same directly to the Officer-in-Charge of the Jail in which the appellant is confined.

(2) When a sentence is modified on appeal or otherwise, the concerned trial Court shall issue a fresh warrant in Form No. (P) 52 in accordance with the terms of the order passed, and send the same directly to the Officer-in-Charge of the Jail in which the appellant is confined.

(3) The criminal trial Court shall, at the same time when the release order or fresh warrant is issued, recall and cancel the earlier warrant of commitment which is attached to the record of the original court.

(4) When the release order or the fresh warrant is returned with an endorsement of execution, the concerned Trial Court shall incorporate the same in the original record and forward a copy thereof to the court of appeal.

Note. Judicial Officers are prohibited from sending by private mail or fax or telegraph, the orders and decisions of the Courts to the Officers-

in-Charge of Jails for release of prisoners in their custody. Those orders and decisions shall be sent to the Officers-in-Charge of Jails through official messenger of the Court or Tribunal, as the case may be.

Rule 106. When a sentence is confirmed on appeal or otherwise, the Appellate Court or the Court concerned shall send an intimation to that effect to the Officer-in-Charge of the Jail in Form No. (M) 14.

Rule 107. When the order of conviction and sentence is set aside and communicate its order to the jail authority with a view to taking necessary actions.

Rule 108. The result of an appeal shall, notwithstanding the provisions of other rules of this Chapter, be notified by the Appellate Court in Form No. (M) 14 to the Officer-in-Charge of the Jail in which the appellant is confined for information of the appellant.

Note. Judicial officers must understand that this notice is intended solely for the communication of the result of the appeal to the appellant, and in no way relives them of the duty of issuing revised warrants, if necessary.

Rule 109. (1) Where an appellant has been admitted to bail pending hearing of his appeal and the order of conviction and sentence is suspended under section 426 of the Code, the original warrant of commitment shall be kept in abeyance noting the actual date of his release on bail by the jail authority under intimation to the Court which issued it.

(2) The Appellate Court may take any of the following actions on the decision of the appeal, namely: -

(a) In case an order of conviction and sentence is reversed on appeal, the Appellate Court shall send a copy of its judgment and order to the trial Court with a direction to discharge him

from the bail bond previously furnished in connection with an appeal.

(b) If the order of conviction and sentence is set aside and a retrial/further trial of the accused is ordered by the Appellate Court, that Court shall send a copy of its judgment and order with the lower Court's record so as to proceed with retrial/further trial in the light of the observation made therein.

(c) When a sentence is modified on appeal, the Appellate Court shall forward a copy of its judgment and order to the trial Court to make necessary modification in the warrant of commitment so that the modified sentence can be given effect to and executed by the jail authority.

(d) When a sentence is confirmed on appeal, the Appellate Court shall similarly send a copy of its judgment and order to the Court by which the accused was convicted with directions to take measures to secure his surrender or arrest and the suspended warrant of commitment shall resume commencement from the date of such surrender or arrest for executing the remaining part of the sentence.

(e) In the cases mentioned in clauses (c) and (d), the trial Court shall forthwith call upon the accused to surrender and simultaneously issue a notice to the surety in Form No, (P) 75 to produce the accused within 3 days or within the time fixed by the Court after the receipt of notice.

(f) If no surrender is made within the period mentioned in clause (e), a warrant of arrest shall be issued upon the accused along with a notice to the sureties to show cause as to why the bail bonds furnished by them shall not be forfeited.

Note. No extension of time to surrender or to produce the accused shall normally be allowed.

(g) The Court, to which the accused surrenders to his bail or is brought under arrest before it, shall direct the jail authority to make an endorsement on the warrant of commitment the actual dates of his release on bail and of his subsequent surrender or arrest, so that the exact period of his imprisonment already undergone can easily be reckoned.

Rule 110. (1) When the High Court Division on the decision of an appeal certifies its judgment or order under sub-section (1) of section 425 of the Code to the lower Court, the latter shall, unless otherwise directed, issue an order of release or modification of sentence or order for the refund of fine and in doing so, the lower Court shall, as far as possible, be guided by the rules of this Chapter.

Note. When an appeal is preferred to the High Court Division against the order of conviction and sentence passed by the Sessions Judge and the prisoner is admitted to bail, the original warrant in case of reversal or modification of the sentence shall be returned by the concerned Jail Authority to the Sessions Judge and filed with the Sessions record.

(2) Where the High Court Division simply modifies a sentence passed by a Sessions Judge without change of section, and where the High Court Division passes a new sentence by changing the conviction-section,

or the punishment-section, or otherwise, the sentence finally passed shall be counted, unless specially otherwise directed, from the first day of imprisonment under the original sentence.

Rule 111. (1) When a Sessions record is called for by the High Court Division under the provisions of sub-section (2) of section 421 of the Code, the record shall be dispatched not later than a week from the date of receipt of requisition by the Sessions Judge or within the period specified in the order of the High Court Division.

(2) Magistrates, whether judicial or executive, are to be guided by the following instructions in complying with the requisitions or orders received from the Court of Session: -

Magistrate are to comply with all requisitions for records, returns and information made by the Sessions Judges with regard to any case appealable to or revisable by them or referable by them to the High Court Division, whether or not decided by the Magistrates. The Sessions Judges may call for and examine the record of any proceedings before the Magistrates, who are bound to comply with and also to render any explanation which the Sessions Judges may require from them.

Rule 112. The certified copies of judgments or orders of the lower Courts filed with the petitions of appeals in the Court of appeal shall be retained with the appellate records.

Rule 113. If a prisoner under sentence of death intends to prefer an appeal, he shall send it to the Registrar of the High Court Division through the concerned Officer-in-Charge of the Jail.

Note. Any such petition intending to prefer an appeal if addressed to the President of Bangladesh or to any other authority of the Government of Bangladesh shall be ignored and no action will be taken thereon.

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

2. Reference and Revision

Rule 114. (1) The Chief Judicial Magistrate or the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, shall comply with all requisitions for records, returns and information sent by the Sessions Judge with regard to any case, appealable to or revisable or referable by him, to the High Court Division.

(2) The Chief Judicial Magistrate or the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, shall render any explanation which the Sessions Judge may require from them, and obtain and submit any explanation which the Sessions Judge requires from the Subordinate Magistrates in respect of matters under sub-rule (1).

Rule 115. When the record of a proceeding before any Subordinate Criminal Court is required by the Sessions Judge under section 435 of the Code, it may be called directly or through the Chief Judicial Magistrate or the Chief Metropolitan Magistrate or the District Magistrate, as the case may be.

Rule 116. (1) If any person makes any application for revision of any finding, sentence or order, recorded or passed by any Subordinate Criminal Court, before the Sessions Judge, he shall file along with his application certified copies of judgment(s) or order(s) against which revision is sought for.

(2) The certified copies of judgment(s) and order(s) filed under sub-rule (1) shall be retained with the revisional records.

(3) The attention of the Sessions Judges and Judicial Magistrates is invited to the provisions of section 442 of the Code, and they are informed that, in the case of prisoners whose conviction and sentence by a Magistrate is affirmed by a Court of Session, but modified by the High Court Division on revision, it is the duty of the Sessions Judge as well as the Judicial Magistrate, to whom the decision or order of the High Court Division is certified, to issue orders conformable to the decision so certified.

Rule 117. In a reference under section 374 of the Code, the Sessions Judge holding trial shall forward with the record of the case-

(a) all police diaries;

(b) articles connected with the offence which have been proved and exhibited. But if the Sessions Judge thinks that alamats such as, weapons, counterfeit coins etc. which cannot be attached with the record would be useful to the High Court Division, those shall also be transmitted by him.

Rule 118. In a reference under section 374 of the Code, the record of the case, together with the letter of reference and the documents and articles prescribed in rule 117 shall be dispatched from the station at which the trial held within 3 (three) working days of the order sentencing the accused to death, for the orders of the High Court Division.

Rule 119. (1) Report under section 185 of the Code shall, in all cases, be accompanied by the records of the case to which they relate and by a letter of reference stating that the reference is made under the

aforesaid section of the Code and setting forth the following matters, namely: -

(i) the contentions raised in the Court below on the point of jurisdiction,

(ii) the evidence, if any, adduced in support of the contentions, and

(iii) the official records and other authentic materials which have a substantial bearing on the contentions raised.

(2) After the case is registered in the High Court Division, a notice shall be given to the Attorney General and the Secretary, Ministry of Law, Justice and Parliamentary Affairs, so that they may produce or cause to be produced before the High Court Division the relevant maps and other papers from the office of the Director of Land Records which may be necessary for a decision of the case.

Rule 120. (1) When the High Court Division during hearing of an appeal or an application for revision, directs the release of a prisoner on bail to the satisfaction of the Sessions Judge or the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, the said Magistrate shall forthwith fix the amount of bail and transmit the bail bond and other papers to the jail authority for his release.

(2) The Court to which the order of the High Court Division directing the release of a prisoner on bail is communicated shall report to the High Court Division the fact of his release on bail immediately on his release and also the date of his release.

(3) If the prisoner referred to in sub-rule (1) is unable to furnish the bail bond required of him, the fact shall be reported forthwith to the High Court Division and if after submission of the said report, the prisoner is ready to furnish his bail bond and is released on bail, such fact shall

likewise be reported to the High Court Division forthwith by the Sessions Judge or the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be.

Rule 121. Where, during the pendency of an appeal or an application for a revision, a prisoner is released from jail on the expiry of the term of his sentence, the Court receiving the warrant under section 400 of the Code shall immediately report the fact of his release to the High Court Division or the other appellate Court or the Court of revision, as the case may be.

CHPTER VII

BAIL BONDS

Rule 122. (1) A Bail-bond Register in Form No. (R) 26 shall be maintained in the office of the Session Judge or the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, as the case may be, in which the names of the persons who stand as sureties and the amount of their capacity shall be entered in alphabetical order.

(2) The Bail-bond Register shall be maintained by the concerned Assistant of the office under the supervision of the concerned Sessions Judge, or the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, as the case may be.

(3) Several pages shall be allotted in the Register to each surety.

Rule 123. Any person desirous of being enlisted in the surety-list shall file an application before the concerned Sessions Judge or the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, as the case may be, with the following particulars, namely: -

(i) Name.....

(ii) Permanent address.....

(iii) Present address.....

(iv) List of properties owned by the application with valuation.....

(v) Documents to show the exclusive ownership of the application in the properties mentioned in serial (iv) .....

(vi) The extent of bail capacity prayed for.....

(vii) Any other important information in favour of the applicant.

Rule 124. (1) The concerned Sessions Judge or the Chief Metropolitan Magistrate or the Chief Judicial Magistrate shall after such enquiry as he may make, either himself or by any other Magistrate or through the Police, as regards the financial soundness and the general fitness of the applicants, enlist the names of the sureties and shall also fix the amount of bail capacity for each of them.

(2) If the surety fails to produce the accused whenever so ordered by the Court, or if the accused bailed out on his security frequently jumps the bail or the surety neglects to pay the penalty at the Court's direction on the forfeiture of the bond, the concerned Sessions Judge or the Chief Metropolitan Magistrate or the Chief Judicial Magistrate may strike off his name from the surety-list of the Bail-bond Register:

Provided that no order for striking off the name of the surety from the Register shall be made under this sub-rule unless he is given an opportunity to explain his conduct.

(3) The concerned Sessions Judge or the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, as the case may be, may

demand a cash security up to Tk. 5000/- from a person who intends to register his name as a surety for an amount exceeding Tk. 100,000/-.

Rule 125. An Advocate shall not be allowed to stand as a surety for, or certify the soundness of a surety of, his own client in any criminal proceeding pending before any Court.

Rule 126. A Court shall, before starting a proceeding under section 514 of the Code, be satisfied that the bail bond in question has been forfeited and it shall also record the grounds of the proof of such forfeiture.

Rule 127. Whenever there is a prayer for the remission of a portion of the penalty payable by a surety, the Court shall consider the cause shown by the surety under sub-section (5) of section 514 of the Code and shall use its discretion in this regard judicially.

Note. The rules referred to above application to a Sessions Judge shall also apply to Nari-O-Shishu Nirjatan Daman Tribunal Judge, Special Tribunal Judge, Special Judge or any other Judge of equal rank and status, so far as those are not inconsistent with the provisions of any other special law.

CHAPTER VIII

RECORDING OF EVIDENCE

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

Rule 128. (1) Parties shall file in the respective Courts their lists of witnesses who are in attendance for examination not later than 09.30 a.m. or the hour specified by the High Court Division from time to time for taking seat for judicial work.

(2) The omission of the name of a witness from the list shall be no bar to his being examined, if presented for examination but no costs shall be allowed to him on account of his expenses for the day's attendance,

unless he can satisfy the Court that his attendance was delayed by unavoidable circumstances.

(3) The Bench Assistant shall enter in the Register of Attendance of Witnesses [Form No. (R) 10], the names of witnesses entered in the list and also of those who, though not so entered, are actually examined.

(4) Witnesses appearing in a re-trial, shall be treated as new witnesses and a note shall be made in the remarks column of the Register of the Court holding the re-trial showing the number of the times each witness appeared in the previous trial.

Note 1. All witnesses examined by the Court at any stage of the enquiry or trial shall be entered in the Register in Form No. (R) 10.

Note 2. Any hazira filed in any case other than in any police case later than 9.30 a. m. will not be accepted unless a stamped petition is filed praying that the Court concerned might condone the delay for which sufficient cause shall be stated.

Note 3. This rule in no way affects that obligation on the part of the witnesses to attend punctually at the time at which they are summoned.

(5) The Police Officer attached to the Court, or some other responsible officer of the Court specially assigned, shall be required to make over to the Bench Assistant, not later than 12-30 P.M. a list, verified, dated, and initialed by him, of the witnesses who, up to that hour are in attendance for examination. The Bench Assistant will enter in the Register of Attendance of Witnesses the names of the witnesses entered in the list, and also of those who, though not so entered, are actually examined. The Omission of the name of a witness from the list shall be no bar to such witness being examined, if presented for examination; but no costs shall be allowed to any witness on account of his expenses for the day’s attendance,

unless he can satisfy the Court that his attendance was delayed by unavoidable circumstances.

Note. This sub-rule in no way affects the obligation on the part of witnesses to attend punctually at the time at which they are summoned.

Rule 129. In the record of the deposition of a witness or the statement of an accused, the following particulars of the person so examined shall be included, namely: -

(1) Name.

(2) Father's name, mother's name or in the case of a married woman, the name of her husband.

(3) Age.

(4) Religion.

(5) Profession or calling.

(6) Address-Upazila, Village, Post Office, Police Station & other addresses, if any.

Note. The age shall be stated by the person examined unless the Presiding Officer considers it to be erroneous in which case he shall record his own estimate of the age, and shall also keep a note of the same in the deposition-sheet.

Rule 130. (1) The evidence of witnesses should invariable be recorded as soon as possible after their attendance. If, from unavoidable causes, an adjournment is indispensable, there should be no unnecessary delay. Witnesses remaining over from one day should, as a rule, be examined at the first sitting of the Court on the following day and every effort should be made to minimize the inconvenience to which they may be subjected.

(2) When it is deemed necessary to adjourn the hearing of a case, the adjournment shall be for as short a time as possible, and no person accused

of any offence triable by a Magistrate shall be remanded to custody for any period exceeding fifteen days as contemplated by the proviso to section 344 of the Code.

(3) All Chief Judicial Magistrate and Chief Metropolitan Magistrates should carefully supervise the returns of their subordinates, as they will be held responsible for the correction of irregularities, the prompt discharge of witnesses, and the early completion of the trials.

(4) Similarly the Sessions Judges should supervise the returns of Additional Sessions Judges and Joint Sessions Judges of the Sessions Division.

(5) When the evidence of any witness is recorded in any trial or other proceeding in the absence of the accused, that fact shall be recorded in the order-sheet.

Rule 131. (1) When the Magistrate or the Judge takes down the evidence himself, he may use a computer or a type-writer, if it is convenient for him.

(2) When the computer or the type-writing machine is used by the Presiding Officer himself for recording deposition and memorandum of evidence, a certificate with the dated signature of the Presiding Officer himself shall be given on each page that has been so done.

Note. The Government shall supply the Presiding Officers using their own computers or type-writers for official purpose with printing-ink or type-writing ribbons of cost.

(3) Computers or type-writing machines may be used, instead of pens, by the Sessions Judges, Additional Sessions Judges and Joint Sessions Judges for the purpose of recording depositions and memoranda of evidence in criminal cases, In case of recording of evidence using the

computer or type-writing machine by the Presiding Judge himself, a certificate with the dated signature of the Presiding Judge must be given that this has been so done. Each page of the record so made must be attested by the Judge's signature.

(4) After recording the evidence of witnesses under section 356 or section 357 of the Code, it shall be read over to the witness in the presence of the accused, if in attendance, or of his Advocate, if he appears by advocate, and shall, if necessary, be corrected. After completing the recording of such evidence, the witness shall subscribe his signature or left thumb-impression at bottom or each page of the deposition-sheets.

Rule 132. (1) In a case, if it becomes necessary, any Bangla document or deposition of a witness or statement of an accused may be translated into English; and a copy of such translation, fairly written out, is to be incorporated in the record. Provided that, when a Bangla document, the contents of which are not relevant, used in evidence for a limited purpose, such as to prove a signature or hand-writing, or the nature of writing materials, or the like, it shall not be necessary to make an English translation of the detailed contents of such document.

(2) When a Presiding Officer gives dictation of the depositions of witnesses in open court, those shall ordinarily be typed to dictation and a certificate as in sub-rule (2) of rule 131 should be given by the Presiding Officer.

(3) Attention of all Judicial Magistrates is invited to section 509 of the Code, which provides that the deposition of Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under Chapter XL of the Code, may be given in evidence in any inquiry, trial, or other proceeding under the Code although the deponent is not called as witness. In order to secure

compliance with the provisions of the section quoted, Magistrates shall sign at the foot of the depositions of medical witnesses a certificate in the form indicated below: -

"The foregoing deposition was taken in the presence of the accused who had an opportunity of cross-examining the witness. The deposition was explained to the accused and was attested by me in his presence."

The name of the accused person should be inserted in the Certificate.

(4) Deposition of a Medical witness under section 509 of the Code and the statement of a witness under section 33 of the Evidence Act, 1872, in case in which it may be given in evidence and it is considered desirable to put in such examinations, before such examinations are received as evidence under any of above two sections, care must be taken to see that they are in proper form and duly attested or otherwise strictly proved. It is to be noted that statement under section 33 of the Evidence Act, 1872, cannot be given in evidence unless it is proved that the witness, whose statement it is proposed to be put in, is dead, or the Court is, satisfied that for sufficient cause, his attendance cannot be procured.

Note. Such examinations, when so received, are to be annexed to File A of the record.

Rule 133. (1) Difficulty having been frequently experienced in reading the evidence of witnesses, the attention of all judicial officers entrusted with handling of criminal cases is called to the necessity of carefully writing such evidence in a legible manner. Depositions should be written on both sides of the paper maintaining a margin of one-fourth of each page being left blank. Only one deposition should be written on each sheet of paper.

(2) In the case of records sent to the High Court Division in which, for any cause, the evidence has been indistinctly or illegible recorded,

copies of such evidence should be submitted along with the record of the case.

(3) Any deposition in which there may be any doubt as to the exact meaning of the expression used and in which the doubtful expression has an important bearing on the offence with which the accused is charged, the words actually used should be written in that language or transcribed in italics in order that the Court may be in a position to determine their exact significance.

(4) If any instance occurs in which a foreign language is used or in which the evidence is delivered in a dialect to which a Judge may be unaccustomed, a competent interpreter may be employed.

Rule 134. When several accused persons bearing the same or similar names are included in one trial, care should be taken in recording the evidence given by each witness to specify the father's name of the accused or any other distinguishing feature, whenever the name of anyone of them is mentioned.

Note. Special attention must be paid to correctness and uniformity in the manner of spelling the names of the accused persons at the time of recording of evidence.

CHAPTER IX

ARRANGEMENT AND PREPARATION OF RECORDS DURING TRIAL

1. Division of Records into Files

A. Court of Session

Rule 135. Every record of a Court of Session shall consist of two main files, to be styled and marked, respectively File A and File B, and a Supplementary File for documents not included in File A and File B.

Rule 136. File A shall contain the following papers which shall be arranged in the following order, namely: -

(1) Title Page.

(2) Table of Contents.

(3) Order-sheet.

(4) Papers showing how the proceedings were initiated together with any order, consent or sanction to the initiation of the proceedings under sections 195 to 199 of the Code, that is to say, complaint, First Information Report to the Police or order of the Magistrate under clause (c) of sub-section (1) of section 190 of the Code on which the proceedings were taken, Police Report under section 173 of the Code, etc.

(5) The charge under which the trial has been held with a note thereon that it has been read over and explained to the accused and the plea of the accused.

(6) Any document connected with the offence charged, or in respect of which the charge is made, such as, record of statements made by the accused which form the subject of a charge of giving false evidence, document said to be forged etc.

(7) List of articles or materials connected with the offence which have been proved and exhibited but which cannot be attached to the record, such as, any weapon used in the commission of any offence against a person, stolen property in an offence against property, counterfeit coins and materials for counterfeiting etc.

(8) (a) The depositions of the witnesses for the prosecution examined at the trial in chronological order, except that when a witness has been cross-examined or re-examined at a later stage of

the proceeding, such cross-examination, or re-examination, shall be attached to his original deposition.

(b) The depositions of witnesses who are absent at the trial which are admitted under section 33 of the Evidence Act, 1872, or section 512 of the Code, or otherwise, such as, depositions of witnesses taken on commission, dying declarations, etc.

Note. When a witness has been cross-examined for the purpose of taking contradiction/omission under section 145 of the Evidence Act, 1872 as to any previous statement made by him in writing or reduced into writing during inquiry or investigation, such previous statement shall be incorporated in the record.

(9) The deposition of a medical witness admitted under section 509 of the Code.

(10) The report of Post-Mortem Examination and other reports of Chemical examiner, Serologist, etc under section 509A and 510 of the Code.

(11) The examination of the accused recorded under section 342 and any confessional statement of accused recorded under section 164 of Code.

(12) Any written statement put in by the accused in defense.

(13) The deposition of the witnesses examined for the defense in chronological order.

(14) The depositions of the witnesses examined by the Court under section 540 of the Code.

(15) Judgment, finding and sentence.

(16) If the trial involves a charge of previous conviction, the evidence for the prosecution to prove such conviction and the evidence, if any, adduced by the accused to rebut it.

The following papers shall be subsequently added to complete the record: -

(17) Copy of the judgment and order of the appellate or revisional Court.

(18) Warrant returned after execution by the Jail Authority.

(19) Bond, if any, executed under section 106 of the Code.

(20) If the sentence has been remitted in whole or in part by the President or the Government of Bangladesh a copy of the order of remission.

Rule 137. File B shall contain-

(1) Title Page,

(2) Table of Contents,

(3) All other papers not included in File-A or the Supplementary File, referred to in rule 146.

B. Courts of Magistrate

Rule 138. The record of every case tried by a Magistrate shall consist of two main files, to be styled and marked respectively File A and File B, and a Supplementary File documents not included in File A and File B.

Rule 139. The following papers shall be included in File A in the following order, namely :-

(1) Title Page.

(2) Table of Contents.

(3) Order-sheet.

(4) Papers showing how the proceedings were initiated, i.e, the complaint etc.

(5) (a) Depositions of witnesses for the complainant examined at the trial in chronological order except that when a witness has been

cross-examined, or re-examined, at a later stage of the proceeding, such cross-examination or re-examination shall be attached to his original deposition.

(b) Depositions of witnesses, who are absent at the trial, which have been admitted in evidence under section 33 of the Evidence Act, 1872, or otherwise.

(6) Lists of articles connected with the offence charged, which have been proved and exhibited, but not attached to the records, e.g. weapons used in the commission of the offence etc.

(7) Examination of the accused under section 342 of the Code.

(8) The depositions of the witnesses for the defense in chronological order.

(9) The deposition of the witnesses for examined by the Court under section 540 of the Code in chronological order.

(10) Judgment, finding and sentence.

The following papers shall be subsequently added to complete the record:

(11) Copy of the judgment and order of that appellate or the revisional Court.

(12) Warrant returned by the Jail Authority after execution of the sentence.

(13) Bond, if any, executed under section 106 of the Code.

Rule 140. File B shall contain: -

(1) Title Page.

(2) Table of Contents.

(3) All other papers not included in File A or the Supplementary File referred to in rule 146.

Complaints dismissed under section 203 of the Code

Rule 141. (a) Not Title Page or Table of Contents shall be necessary in the case of complaints summarily dismissed under section 203 of the Code, but such complaints with order-sheets shall comprise monthly files and each such file shall constitute one record to which shall be attached the Title Page and Table of Contents.

(b) When, however, a complaint dismissed under section 203 of the Code is called for by a Court of Revision, a Title Page and a Table of Contents shall be attached thereto.

(c) Of each file or record formed under this rule, a single entry shall be made in the list which accompanies all records sent to the Record Room.

Summary Trials

Rule 142. (a) In a case tried summarily, the "A" File shall contain only the form of summary trial maintained under section 263 or section 264 of the Code and whatever else the Court may record under the provisions of those sections and all other papers connected with the trial should be placed in the "B" File.

(b) In the absence of express orders to the contrary, the "A" File alone should be forwarded to the Court of Appeal of Revision.

(c) In the case of the records of a summary trial, no Title Page or Table of Contents need be prepared, but for a File of such record, an order-sheet shall be maintained.

Miscellaneous Inquiries

Rule 143. The rules relating to the records of Miscellaneous Cases shall, as far as practicable, apply to the records of all inquiries and other proceedings held under the Code.

C. Courts to which Transfer Applications are Made

Rule 144. The records of every application for transfer of a case under sections 526B and 528 of the Code shall consist of only one file styled and marked as File A, and the papers shall be arranged in the following order, namely: -

(1) Title Page.

(2) Order-sheet.

(3) Application for transfer.

(4) Separate order, if any.

D. Courts of Appeal and Revision

(Other than the High Court Division)

Rule 145. The record of the Appellate or Revisional Court shall consist of only one file, styled and marked as File A, and the papers shall be arranged in the following order, namely: -

(1) Title page.

(2) Table of Contents.

(3) Order-sheet.

(4) Petition of appeal or application for revision.

(5) Copy of judgment and order.

(6) Additional evidence, if any, taken by the appellate Court under section 428 of the Code.

(7) Other papers, if any, in order in which they are filed.

(8) Judgment and order in appeal or revision.

The following paper shall be subsequently added to complete the record: -

(9) Copy the judgment and order, if any, of the Supreme Court.

E. All Courts: Supplementary File of Documents.

Rule 146. (a) Documents admitted in evidence at the trial or inquiry not included in File A shall be placed in the Supplementary File.

(b) The Supplementary File shall include not only documents admitted in evidence, but also documents used to refresh the memory of witnesses.

(c) Police diary shall be included in the Supplementary File.

(d) The Supplementary File shall be arranged in the following order, namely: -

(1) Title page.

(2) Table of Contents.

(3) List of documents admitted in evidence for the prosecution with such documents, except those which are required to be kept in File A.

(4) List of documents submitted by the defence with such documents, except those which are required to be kept in File A.

(5) List of documents used to refresh the memory of witnesses.

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

2. Exhibits

A. Documents

(i) Documents Tendered in Evidence

Rule 147. (1) All documents filed in Court by a party or witness shall be accompanied by a list Form (M) 21.

Note. If any document be torn, worm-eaten or damaged in any other way, a clear note to that effect must be made in the list.

(2) The Bench Assistant whose duty it is to receive the documents shall verify the items entered in the list and note the fact of the verification in such a manner that no new item can be added to it subsequently.

(3) Any peculiarity in the condition of any document about which there ought to be a special reference in the list shall be brought to the notice of the Presiding Officer of the Court.

Rule 148. (1) When documents are called from Government Offices, the officer producing the same shall enter such of them as are retained in Court in a list in Form No. (M) 21 prepared in duplicate and the Bench Assistant shall verify the items entered in the list and then put his dated signature in both the copies of the list just below the entries made therein with an endorsement to the effect that the documents entered in the list have been received by him.

(2) One copy of the list mentioned in sub-rule (1) shall be made over to the officer producing the documents which will serve as a receipt for the documents produced, the other copy being with the record of the case.

(3) When the documents are taken back, the officer attending the Court for taking delivery of them shall produce the receipt referred to in sub-rule (2) and on receiving the documents shall record thereon an endorsement to that effect over his dated signature and thereupon the receipt so produced, endorsed and signed, shall be taken from the officer and kept with the record of the case.

Rule 149. If any document is referred to in a proceeding or shown to a witness before it is tendered in evidence and formally proved, it should be immediately marked for identification with letters X, Y, Z etc.

(ii) Documents Exhibited As Evidence

Rule 150. (1) The Court shall mark the documents which are admitted in evidence on behalf of the prosecution with numerals 1, 2, 3 etc.

and documents admitted in evidence on behalf of the defence with capital letters A, B, C etc. e.g.,

Exhibit I, Exhibit 2 etc.

Exhibit A, Exhibit B etc.

(2) When a number of documents of the same nature are admitted e.g. a series of rent-receipts, the whole series shall bear one number or one capital letter and a sub-number in brackets shall be added to distinguish each paper of the series, e.g.,

Exhibit I, Exhibit 1(1), Exhibit I (2) etc.

Exhibit A, Exhibit A (1), Exhibit A(2) etc.

(3) Documents shall be marked in the order in which they are admitted and if the capital letters are exhausted, double capital letters shall be used.

Rule 151. (1) When a document of historical or antiquarian interest or an original record of the High Court Division or of any other Court is produced and tendered in evidence, the Court before which it is produced should make every possible endeavour to prevent its being defaced by endorsement or exhibit marks or by having the seal of Court impressed upon it.

Note. The disfigurement of a document may be avoided if a photographic copy of the same is substituted for the original, or the document is kept in a sealed cover, or in a locked and sealed box, the necessary particulars being endorsed on the outer side.

(2) If other means fail, careful measures should be taken for the safe custody of the document pending instructions from the higher authority.

Rule 152. (1) A list of documents admitted in evidence on behalf of the prosecution and another list of documents admitted in evidence for the

defence shall be prepared in Form No. (M) 22 by the Bench Assistant and signed by the Presiding Officer of the Court.

(2) The documents shall be entered in the list in the order in which they are admitted and marked.

Rule 153. (1) Where an exhibit forms part of a voluminous document, such as, an account book, khata etc., it should be clearly indicated by means of a slip of paper pinned to the sheet or page on which it occurs, the exhibit mark being noted on the slip and also on the sheet or page.

(2) When an entry in a voluminous document is admitted in evidence, the portions containing the entry so admitted, shall be clearly indicated by surrounding the same in red ink.

Rule 154. Whenever a document used in evidence is withdrawn, either before or after the judgment, a note of that fact shall be made in the remarks column stating also whether a copy has, or has not, been substituted.

(iii) Return of Documents

Rule 155. (1) When an entry in a public register, record or document or in a private account book or other bulky record, not being an entry in respect of which an offence has been committed or is alleged to have been committed, is produced in evidence and made an exhibit in the case, and the retention of such register, record, document or account book would cause inconvenience to the public or the person producing the same, such register, document, book or record shall not be retained by the Court but shall be returned to the person by whom if has been produced.

(2) Before returning the register, document, book or record, the Court shall mark for the purpose of identification, such entry or entries as has/have been exhibited as evidence and shall cause a certified copy or a

duly attested photo-copy of the entry or entries to be filed with the record of the case.

(3) The person, to whom the register, document, book or record is returned, shall be bound to produce the same before the Court, when required to do so and may be required to execute a bond to that effect.

Rule 156. (1) Records called from the Civil, Revenue or other Criminal Courts must be returned to the Courts concerned immediately on the termination of the inquiry or trial, if not returned earlier.

(2) The Presiding Officers must see that no records mentioned in sub-rule (1) are sent to the Record-room along with the records of the criminal proceedings.

Rule 157. (1) On the judgment and order in any case becoming final, notice in Form No. (M) 23 shall be given to the person by whom any document admitted and used in evidence was brought into Court, or to his Advocate requiring him to take it back, within 6 months from the date of the notice, failing which, the document will be destroyed when the record to which it relates is destroyed.

(2) The notice mentioned in sub-rule (1) must distinctly warn the custodian that the document will be kept at his own risk and that the Court declines all responsibility for its safe custody.

(3) A copy of the notice shall be put up in the Court in which the case was tried.

Rule 158. When returning the document, care must be taken that any document which the Court has impounded is not delivered out of the custody of the Court.

(iv) Documents Not Admitted In Evidence

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

Rule 159. Documents which are not admitted in evidence should not be made part of record, but should be immediately returned to the party by whom they have been produced.

Rule 160. (1) Documents filed by a party to a proceeding but not admitted in evidence, if not returned earlier, shall, at the conclusion of the proceeding, be returned to the person producing them or his Advocate after he has signed a receipt for the same.

(2) If the documents are not taken back before the judgment, the Presiding Officer shall note the fact in the order-sheet which may be shown to the party or his Advocate and signed him.

(3) Care should be taken by the Presiding Officers that un-exhibited documents are not mixed up with the exhibited ones in the case and such documents, if not taken back by the parties or their Advocates, shall, before the judgment is pronounced, be removed from the record and placed elsewhere with a fly-leaf attached to them marked with the number of the case and the name of the party or Advocate filing the documents.

Note. Documents which are not admitted in evidence are to be destroyed at the end of 6 months after the date of the final order of the Court and receipt of a notice upon the concerned party in Form No. (M) 23 and those documents shall not be sent to the Record Room.

B. Articles

Rule 161. When any article or material connected with the offence charged is produced in a Criminal Court and, after being proved, is admitted in evidence, it shall be marked by the Court with a Roman Numeral, e.g.,

Exhibits I, II, III etc.

Rule 162. (1) A list of articles admitted in evidence shall be prepared in Form No. (M) 22 by the Bench Assistant and shall be signed by the Presiding Officer of the Court.

(2) The articles shall be entered in the list in the order in which they are admitted and marked.

Rule 163. No article, admitted in evidence shall, subject to the provisions of section 517 of the Code, be returned or destroyed until the appeal has been disposed of or where no appeal is preferred, until six months after the period of appeal has expired.

Rule 164. Whenever an article which has been admitted in evidence is returned or destroyed, a note to that effect shall be made in the remarks column of Form No. (M) 22.

3. Records

Rule 165. (1) In every case, as the trial proceeds, each paper as soon as it is received, shall be entered in the Table of Contents and attached to its proper file by the Bench Assistant.

(2) Papers shall be arranged in the order in which they are brought before the Court.

Rule 166. The final scrutiny of papers must, in all cases, be made before the record is sent to the Record Room, the object being to avoid the necessity of sorting out papers in the Record Room.

Rule 167. No record of any case or a portion of it shall, for any purpose, be removed from the court or sent to any person other than an officer of the Court except under an order in writing of the Presiding Officer of the Court:

Provided that if any Presiding Officer requires a record at his residence, he may take charge of it with proper care and security.

Note. Taking of records and court papers by the Court-staff to their houses for the purpose of their work is strictly forbidden.

4. Title Page

Rule 168. To each File of every record, there shall be prefixed a combined Title Page and Table of Contents in Form No. (M) 20, but if it is found that any case does not come within the classification under which records are required to be preserved for one year from the date of the final judgment or order, a separate Title Page in Form No. (M) 18 shall be added.

5. Table of Contents

Rule 169. The Table of Contents shall be in Form No. (M) 19.

Rule 170. Exhibits are not to be shown in the Table of Contents and the lists which are attached to the exhibits under the rules shall alone be shown in the Table and will bear serial and sheet numbers.

Rule 171. (1) The lists, and the documents referred to in them, shall not be attached to any file when inquiry or trial is in progress; but when the inquiry or trial is over, the lists shall be numbered with their proper serial and sheet numbers and shall be affixed to the file to which they belong in their proper places.

(2) The necessary entries in connection with the lists mentioned in sub-rule (1) shall then be made in the Table of Contents.

6. Order-sheet

(i) How to maintain the Order-sheet

Rule 172. (1) An Order-sheet in the prescribed Form No. (M) 16 or Form No. (M) 17, as the case may be, shall be attached to the record of every case and all orders passed by the court shall be recorded therein.\

Note. Orders shall never be written on any petitions, returns, records and other similar documents.

(2) The orders, the reasons of which are required to be recorded at length, shall not, however, be written in the order-sheet, but a note of the order and of the date on which it was made shall be entered therein.

(ii) Order-sheet of the Sessions Court

Rule 173. (a) An order-sheet in Form No. (M) 17 shall be used in all Sessions Trial cases and shall contain a complete record in chronological order of the proceedings from the commencement to the conclusion of the trial and every order passed during the trial.

(b) The order-sheet may be written by the Bench Assistant, but shall be signed by the Sessions Judge after he has satisfied himself of the correctness of all the entries made therein.

Rule 174. The order-sheet shall contain the following, namely: -

(1) An abstract of the charge or charges and if any amendment is made by the Sessions Judge under sections 227 to 230 of the Code, a note to that effect.

(2) A note of the fact that the charge has been read out and explained to the accused and note of his plea.

(3) A note stating by whom the case is opened, and if any preliminary objections are taken, the substance of such objections with the orders passed thereon.

(4) If a case not exclusively triable by the Court of Session is transferred for trial to the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, a note of that fact stating the reasons of such transfer.

(5) If in any case, the evidence is taken in the absence of any accused, a note to that effect.

(6) The names of the prosecution witnesses as they are examined.

(7) Particulars of any documentary evidence or articles admitted in evidence for the prosecution with a note of any document tendered in evidence and rejected, as well as the order passed.

Note. This should include any examination or confession of the accused and any other evidence admitted by the parties.

(8) If the accused has been examined under section 342 of the Code, a note of that fact and whether on being asked, he has stated that he wants to adduce evidence in his defence.

(9) The names of witnesses, if any, examined and particulars of any documentary evidence or articles admitted for the defence.

Note. The fact of rejection of any documentary evidence or articles should also be noted.

(10) If the accused offers himself as a witness in writing under section 340 of the Code, a note of his request to that effect.

(11) A note of the fact that the prosecution and the defence have argued their respective cases.

(12) A note of the reply of the prosecution, if any.

(13) If the accused is convicted or acquitted, the substance of the order including the operative portion of the judgment and order delivered.

(14) If the accused is convicted or acquitted, the substance of the order including the operative portion of the judgment and order delivered.

(15)

(iii) Order-sheet of the Magistrate's Court

Rule 175. (1) An order-sheet in Form No. (M) 16 shall be used by all Magistrates and it shall include every interlocutory order from the date

of filing of a complaint or from the date of receipt of an FIR by the Magistrate till the period the case is pending before him.

(2) Besides the particulars mentioned in rules 173 and 174, so far as they are applicable to a Magistrate's Court, the order-sheet of the said Court shall contain the following, namely: -

(a) The fact of taking cognizance of an offence by the Court.

(b) A note of the order, consent, sanction etc., either under the provisions of the Code or of any other enactment giving jurisdiction to the Court to take cognizance of an offence.

(c) All statutory requirements relation to the validity of a trial or inquiry.

(d) Reasons for which an adjournment is grand or refused.

Rule 176. Orders containing the Judicial decisions and the final order passed exercising judicial discretion shall be recorded by the Magistrate in his own hand or typed by him. However, orders may be recorded by the Bench Assistant under the direction and supervision of the concerned Magistrate.

Note. When a case is transferred from one Magistrate to another, the order-sheet shall accompany the record.

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

CHAPTER X

JUDGMENT

Rule 177. In every sentence or order passed by a Criminal Court, the full name and designation of the Judge or the Magistrate passing the sentence or order shall distinctly appear on the face thereof.

Rule 178. Whenever, owing to one or more previous convictions, an enhanced sentence is passed on conviction of an offence, whether under the terms of section 75 of the Penal Code, 1860 or otherwise, the Sessions Judge or Magistrate, as the case may be, shall state in his judgment the date of each previous conviction as has been proved and the sentence passed as well as the particulars of the offence charged.

Rule 179. (1) The attention of all Criminal Courts is invited to the necessity of strictly observing the provisions of sub-section (1) of section 367 of the Code, which provide that the judgment must contain the point or points for determination, the decision thereon, and the reasons for the decision, It should be noted that the provisions of section 367 are also applicable to the judgment of the subordinate Appellate Courts passed under section 424 of the Code.

(2) The judgment shall be pronounced in open Court by the Presiding Officer either immediately after the termination of the trial or on some adjourned date not beyond fifteen days. No judgment shall ordinarily be written or dictated during the Court hours until the day's cause list is exhausted. Apart from the foregoing provisions, the judgment may be written or dictated on any day only when cases appearing in the daily cause list have been attended to:

Provided that in urgent cases, the Presiding Officer may rise one hour earlier for writing the judgment in his office-chamber and time so taken for writing the judgment shall be treated as judicial work.

Note. If the Presiding Officer fails to deliver judgment within fifteen days, as stated above, the cause such delay should be explained in the Monthly Return.

Rule 180. Judgment should be written legibly on both sides of the foolscap paper, a margin of one-fourth of each page being left blank. Judgment may be written either in Bangla or in English.

Rule 181. (1) In English judgments, if any, Bangla word not being a technical term is used, its nearest translated or translated English word shall be added in brackets i9mmediately after the word.

(2) Witnesses should be described in the judgment not merely by their numbers, but also by their names as well. The names should be given not necessarily on each occasion, but sufficiently to denote the person indicated.

Rule 182. (1) When a Session Judge or a Magistrate has expressly condemned or praised the action of the police or of any particular police officer in any judgment, whether in a trial or in an appeal or in a revision, a copy of such judgment should be forwarded to the Superintendent of Police or the Police Commissioner or the concerned authority of the incumbent officer, as the case may be.

(2) Where the convict is a public servant or the member of defence service, a copy of judgment shall be forwarded to the concerned Department of the Government or concerned authority of Defence Service, as the case may be, for taking necessary action.

Rule 183. (1) A computer or type-writer machine may be used, instead of a pen, by Judges or Magistrates, for the purpose of recording judgments in criminal cases. After recording the judgment using the computer or type-writing machine by the Presiding Judge or the Magistrate himself, a certificate must be appended to the last page of the judgment to

the effect that this has been so done. Each page of such judgment so made must be attested by the Judge's or Magistrate's signature.

(2) If the judgment is typed or printed at the dictation of the Presiding Officer, a certificate to that effect shall be recorded by him at the last page of the judgment. Each page of such judgment so made must be attested by the Presiding Officer's signature.

Rule 184. When a sentence of death is passed by any Court and an appeal lies against the sentence as of right, the Court shall inform the accused of the period within which, if he wishes to appeal, such appeal should be preferred and this information should be recorded in the judgment.

Rule 185. Order for deduction of the period in custody already undergone by an accused during the investigation, inquiry or trial as provided in section 35 A of the Code shall be recorded in the judgment at the time of passing the sentence.

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

CHAPTER XI

EXECUTION

Rule 186. All warrants of commitments should be written either in Bangla or in English and sealed with the seal of the Court.

Rule 187. When two or more persons are convicted and sentenced to imprisonment at the same time, a separate warrant of commitment shall be issued for each of them.

Rule 188. In a case, where the convict is a soldier or a person holding a rank in the Armed Forces, the warrant of commitment shall set forth accurately his rank and number, if any, and the regiment in the Defence Forces to which he belongs.

Rule 189. Every Court of Session or Judicial Magistrate, when committing a person to jail, shall attach to the warrant of commitment a descriptive roll in Form No. (P) 73.

Rule 190. The Court making an order for detention of an offender in a Certified Institute established by the Government shall attach to the warrant of commitment a note in Form No. (P) 74 in addition to the descriptive roll in Form No. (P) 73.

Rule 191. The Court, while convicting an accused person, may decide whether he is to be classified as 'habitual' or as "casual criminal" and make a note in that behalf in Form No. (P) 73 for the information of the Jail Authority or the Officer-in-Charge of the Certified Institute, as the case may be.

Note. For rules as to classification of prisoners, see the rules framed under the Prisons Act, 1894.

Rule 192. (1) When a Magistrate passes an order to give security under section 106 or section 118 of the Code and such security is not given on or before the date specified, he shall issue a warrant direction the person

against whom the order is made to be detained in prison until the order of the Sessions Judge is received making necessary modifications in Forms XIII and XIV of the Schedule V to the Code.

(2) When the order of Sessions Judge is received, the Magistrate shall, if the order is one to detain a person in jail, issue a revised warrant in terms of that order.

Note. –The warrant in such a case will not be issued by the Sessions Judge but by the Magistrate before whom the proceedings were instituted.

(3) Where, however, the Session Judge on a reference being made to him under sub-section (2) section 123 of the Code directs the discharge of the person detained, a warrant for discharge shall be issued by the Sessions Judge in Form No. XV of the Schedule V to the Code.

Rule 193. When an order is passed under section 565 of the Code, a copy of the order shall be attached by the convicting Court to the warrant referred to in section 383 of the Code.

Rule 194. When a prisoner has been committed to jail under two separate warrants and the sentence in the one is to take effect from expiry of the sentence in the other, the date of such second sentence shall, in the event of the first sentence being remitted on appeal, be presumed to take effect from the date on which he was committed to jail under the first or original sentence.

Rule 195. All recommendations for remission or suspension of a sentence made to the Government under section 401 of the Code by an officer of any subordinate Court in regard to a convict shall be made through the High Court Division.

Rule 196. No Judicial Officer shall, as rule, send by fax or telegram or telephonic message any order to the Officer-in-Charge of Jail for the release of any prisoner in his custody.

Rule 197. The warrant for release of any prisoner shall not be dispatched by any Court after sun-set, or if so dispatched, shall be endorsed with the instruction for release as early as possible in the following morning. In issuing the warrant for release of the prisoner, the Court must follow the relevant provisions of the Jail Code.

Rule 198. (1) When any Advocate is convicted of any criminal offence, the Court concerned shall, whether an appeal has or has not been filed, without delay, forward a copy of the judgment along with a report to the Secretary of the Bar Council.

(2) If any appeal is filed against a conviction mentioned in sub-rule (1), the fact shall also be reported to the Bangladesh Bar Council immediately and when the judgment in appeal is delivered, two copies of the appellate judgments shall be forwarded by the Appellate Court to the Secretary of the Bangladesh Bar Council.

Rule 199. Whenever a Military pensioner is convicted and sentenced to imprisonment for a criminal offence, the Court passing the order of conviction or confirming a sentence shall immediately forward, free of cost, a copy of its judgment to the pension-paying officer concerned and the concerned Audit and Accounts Department to enable them to suspend further payment of pension to the convict prisoner.

Rule 200. (1) Whenever any foreigner is convicted and sentenced by a Criminal Court, the information shall be sent to the Government in the Ministry of Home and the Ministry of Foreign Affairs.

(2) Due intimation shall be given to the Speaker of the Parliament regarding the arrest, detention, release etc. of the Members of the Parliament subject to the Rules of Procedure of the Parliament.

Rule 201. (1) A warrant issued under clause (a), sub-section (1) of section 386 of the Code, for the levy of a fine shall be directed to the

Officer-in-Charge of the concerned Police Station ordinarily, or other person(s) (see Form No. XXXVII, Schedule V of the Code). The authority issuing it shall specify a time for the sale of the attached property and for the return of the warrant.

(2) The Officer-in-Charge or any other Police Officer or such other person to whom a warrant is directed under sub-rule (1) shall prepare a list specifying each item of moveable property belonging to the offender to be attached.

(3) If no person claims the property attached, the Police Officer or such other person directed to execute the warrant shall have the power of selling it within the time specified in the warrant without any reference to the Magistrate.

(4) A warrant issued under clause (b), sub-section (1) of section 386 of the Code for the levy of a fine shall be directed to the Collector of the concerned district authorizing him to realize the amount by execution according to the civil processes as provided by the Code of Civil Procedure, 1908.

(5) If any person makes any claim in respect of the property attached in pursuance of section 386(1)(a) of the Code, then the ownership of such property shall be determined by the Court, who issued the warrant. The service of any subordinate Magistrate or Upazila Nirbahi Officer or Assistant Commissioner (Land) or a Revenue Officer may be utilized, if necessary, for the investigation of such claim.

(6) Subject to the proviso to section 386(1) of the Code, if at any time subsequent to the return of the warrant and within the period of six years from the passing of the sentence, the fine, or any part thereof, remains unpaid (See section 70 of the Penal Code), and the Court has reasonable grounds for believing that any movable or immovable property

belonging to the offender is within its jurisdiction, it may issue a fresh warrant for the attachment and sale of such property. Such warrant shall be made returnable within a time to be fixed therein.

Rule 202. In the case of sentence, both for corporal punishment and imprisonment, the execution of the former part of the sentence should be endorsed on the warrant; but as the warrant in this case cannot be considered to be completely executed until the convict has undergone the sentence of imprisonment imposed upon him, the Officer-in-Charge of the Jail should retain the warrant until the expiration of the term of imprisonment, or, if the convict dies during such term, return it with an endorsement to that effect.

Rule 203. When an offender is sentenced to imprisonment as well as, or in default of, payment of a fine, the warrant issued to the Jail Authority shall contain a definite information as to whether the fine has been paid or not, either in whole or in part.

Rule 204. When the fine is paid or received in whole in part after the commitment of a convict into the Jail, the Court shall give intimation to the Jail Authority about the fact of payment made and on receipt intimation from the Court, the Jail Authority shall enter the information on the warrant.

CHAPTER XII

DISPOSAL OF PROPERTY

Rule 205. When the Court makes an order under section 516A of the Code for the custody of any property during any inquiry or trial, it may order that the person in whose custody the property is ordered to be kept should execute a bond, with or without sureties, to the satisfaction of the Court, to place the property at the disposal of the Court, whenever so ordered.

Rule 206. Subject to the provisions of section 518 of the Code, orders for the disposal of material objects shall be passed in the judgment itself.

Rule 207. (1) Criminal Courts in making orders under sections 517, 518, 523 and 524 of the Code for the disposal of the counterfeit notes, coins, etc. shall forward them together with any dice, moulds, etc. used for counterfeiting which may have been produced in the case, to the nearest Treasury Officer or the Officer-in-Charge of the concerned Police Station with a request that they may be transmitted to the Bangladesh Bank for disposal. A copy of the judgment delivered in the case with which they are connected shall, at the same time, be forwarded to that Officer.

(2) In a appealable case, the transmission of such notes, coins, etc. to a Treasury Officer or the Officer-in-Charge of the concerned Police Station shall be deferred until the expiry of the time allowed for preferring an appeal and in the event of an appeal, until it is disposed of.

(3) If the Treasury Officer or the Police Officer considers that any particular implement is of special interest and should be preserved, he shall make it over to the Criminal Investigation Department for the purpose.

Rule 208. All arms and ammunitions of prohibited bore which are confiscated shall be sent to the nearest arsenal for disposal on notice to the Commissioner of Police or the Superintendent of Police, as the case may be, and the Deputy Commissioner concerned.

Rule 209. (1) Material objects exhibited at the trial of a criminal case, shall be retained by the Court until the Court is satisfied that the time allowed for the appeal has expired, or that no appeal has been presented or that any appeal presented has been disposed of.

(2) When a case is disposed of by the High Court Division, the material objects shall, subject to the provisions of sub-section (3) of

section 517 of the Code, be ordinarily disposed of after the expiry of 90 days from the date of judgment of the High Court Division, unless in the meantime-

(a) the parties interested have, on a proper application, obtained a direction from the High Court Division for the preservation of such objects, pending disposal of an application for Leave to Appeal to the Appellate Division of the Supreme Court, or any other leave petition, or

(b) an intimation of appeal preferred to the Appellate Division of the Supreme Court has been received.

Rule 210. (1) Orders for the disposal of a property in connection with a case by way of destruction or otherwise shall generally be carried out in the presence of a Magistrate under intimation to the trial Court/Tribunal.

(2) If it is found desirable that the order for destruction of a property should not be given as it is a valuable one, and if it is not ordered to be delivered to the person entitled to it, it should be confiscated or otherwise disposed of by the concerned Magistrate.

Rule 211. (1) When a property is ordered to be delivered to a party, a notice shall be issued to him informing that if he does not appear on the date specified in the notice, the property will be either destroyed or sold and the sale proceeds thereof would be credited to the Government.

(2) If the party appears after the sale of the property, the sale proceeds may be paid to him after deducting the expenses of the sale.

Rule 212. The sale of the property by way of public auction shall be conducted by an officer of the Court and it shall be held and confirmed, as far as may be, in the manner prescribed for the sale of both moveable or immoveable property under the Code of Civil Procedure, 1908 and the Civil Rules and Orders.

Rule 213. In the case of excisable or customs duty livable goods held in the custody of Criminal Courts, notice of the date of auction or other method of disposal shall be issued to the Customs or Excise Authority concerned requiring such authority to arrange the collection of the duty leviable, if any, and issuance of necessary Clearance Certificate/Permits and the like.

Rule 214. The Customs or Excise Authority may also be required to satisfy itself that the auction-purchaser is licensed to deal in such goods.

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

CHAPER XIII

INFORMATION

Rule 215. Any person may apply for information from the records and Registers of any Court.

Rule 216. (1) All applications for information shall be made in the prescribed Form No. (M) 26 to the Presiding Officer concerned or Judge-in-Charge of the Record Room, or some other Assistant designated by them for the purpose, during the first two hours of the Court's daily sitting.

(2) Applications for information with the urgent fee may be made at any time during the office hours.

(3) At stations where there is no Record Room, the applications for information may be made to the Presiding Officer of the Court concerned in respect of records and Registers pending in that Court.

Note. All applications for information shall be destroyed after three months.

Rule 217. (1) One application may be made for information required in connection with a single cause or matter from the same record or Register. When information relating to different matters or causes is

wanted, as many applications are necessary, as the matters or causes to which they relate.

Note. "Same Register" includes any number of volumes of the same class for any one year, but not different classes of Registers, though of the same year.

Rule 218. (1) The Assistant receiving applications shall number them consecutively and enter them in the prescribed Register [Form No. (R) 14] as they are received and the date of receipt shall be noted and stamped thereon.

(2) If the information can be furnished at once, the Assistant shall note the same on the upper portion of the Form in the column for remarks and make that part over to the applicant, taking the latter's dated receipt in the lower portion, which will be retained and recorded in the office.

(3) Urgent applications for information shall be entered in the Register in red ink.

Rule 219. If the information cannot be furnished at once, the Assistant receiving applications will enter in the fourth column of the Form No.(M) 26 as also in the lower receipt portion, the date and if possible, the hour, by which the information will be furnished. The lower receipt portion will then be torn off and made over to the applicant with a direction to present it on the day and hour noted. The upper portion will be immediately passed on to the Assistant in immediate charge of the record concerned who shall enter in the column for remarks the information required and return it to the receiving Assistant before the time prescribed. The upper portion bearing the information will be made over to the applicant on his reappearance and production of the lower portion which will be retained and recorded in the office after taking his dated receipt on

it, as also in the Register of Applications for Information [Form No. (R) 14].

Note. The Judge-in-Charge or the Presiding Officer, as the case may be, will fix the hours within which the applicants should reappear for taking delivery of the paper containing the information.

Rule 220. (1) Each Assistant through whose hands an application for information passes shall put his initials and the date and hour of receipt and passing on by him on the back of the application in the space provided for the purpose in the manner indicated in sub-rule (1) of rule 256 and shall mention in the endorsement the name of the Assistant to whom he delivered such application.

(2) The entries required under this rule shall be made one below the other and must be legibly written and each Assistant receiving an application shall at once comply with the requisition or pass it on to another who can do so.

Rule 221. (1) Subject to the provisions of sub-rule (2), information shall ordinarily be supplied by forenoon of the next open day after the presentation of the application.

(2) Urgent applications should ordinarily be complied with on the day on which they are presented.

Note. The Judge-in-Charge or the Presiding Officer should see that whenever possible, information capable of being supplied from the current records, Registers, etc., which can be easily located, is supplied to the applicants on the day the applications are filed.

Rule 222. Information requiring short answers only shall be supplied. But if any extract from the record or the substance of any order etc. or document is desired, the proper course shall be to apply for a copy.

Rule 223. Defective applications and applications in respect of which the information asked for cannot for any reason be given shall be rejected.

Note. Applications shall on no account be rejected on frivolous grounds and if there are means for finding out the appropriate record or Register, it must be traced out, even though the description as given by the applicant may in some respects be inaccurate.

Rule 224. Surreptitious or gratuitous supply of information by any Assistant or employee is strictly prohibited and shall be considered as misconduct. No information which is required to be supplied under these rules shall be supplied unless an application is made in the prescribed Form with the usual searching fee and any employee violating the rule is liable to be severely dealt with. If it is proved to the satisfaction of the Judge-in-Charge or the Presiding Officer of the Court concerned that such practices are going on, whether responsibility can be fixed on any particular person or not, the Assistant-in-Charge of the department concerned should be warned that failure to check such abuses will be considered as an indication of inefficiency on his part and he is liable to be degraded or otherwise punished.

Note 1. The Record-Keeper or the Assistant-in-Charge should see that outsiders do not on any account come into the room where the Assistants sit or hold conversation with them.

Note 2. The Judge-in-Charge or the Presiding Officer, as the case may be, should as frequently as possible inspect the Register of Applications for Information and initial it with a view to seeing whether information which is to be supplied for on payment of searching fee is being surreptitiously supplied, information is being promptly supplied and the rules of this Chapter are being followed properly. It is recommend that the Judge-in-Charge or Presiding Officer should have the information sheets distributed in his presence as often as time permits.

CHAPTER XIV
COPYING DEPARTMENT AND COPIES
1. Copying Department

Rule 225. (1) In the district headquarters, there shall be a separate Coping Department for Sessions Courts, Judicial Magistrates' Courts and Metropolitan Magistrates' Courts each.

(2) The Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall nominate a Judicial Officer to act as Judge-in-Charge and shall appoint a Head Comparing Assistant (who will be the Assistant-in-Charge) for the Copying Department.

Note. At the outlying stations, the Judicial Magistrate concerned shall be in charge of the Copying Department of that station, and shall place one of the staff to act as Head Comparing Assistant.

Rule 226. The Copying Department shall have as many Copyists or Typists or Computer Operators as may ordinarily be required for the purpose of supplying all applicants with copies without inconvenient delay.

Rule 227. Depending on the volume of works and urgency, the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, may on ad-hoc basis appoint required number of Copyists, Typists or Computer Operators as work-charged employees subject to approval from the concerned Ministries of the Government and in taking such initiative, the concerned Judge or the Magistrate shall keep the High Court Division informed. Copyists, Typists or Computer Operators having proficiency in both English and Bangla typing and their own type writing machines or computers shall be given preference to others when such appointments are to be made.

Rule 228. Copies of English documents shall preferably be typewritten or printed by computer.

Rule 229. No person shall be employed for copying Bangla documents who is unable to copy both English and Bangla efficiently, legibly and with reasonable despatch and preference shall invariably be given to efficient Copyists or Typists or Computer Operators.

Rule 230. The Judge-in-Charge shall keep a list of all Copyists Typists and Computer Operators employed in the office in such manner as may be able to detect who among the Copyists, Typists and Computer

Operators are receiving what amount of remuneration against the amount of work.

Rule 231. Where a Copying Department is not provided with salaried Copyists or Typists or Computer Operators, the Typists or Copyists or Computer Operators appointed under rule 227 are liable to be called upon to perform such work as the Judge-on-Charge may require.

Rule 232. The Registers of Applications for Copies shall be placed every day before the Judge-in-Charge who should sign the last entry after scrutiny.

Rule 233. The Head Comparing Assistant shall be responsible for an equal and fair distribution of work among the Copyists or Typists or Computer Operators and the work shall be so distributed that no Copyist or Typist or Computer Operator has more than sufficient work for one day in his possession at one time. To ensure copies being fully and legibly written or typed or printed, no Copyist or Typist or Computer Operator should be given more work than he is capable of performing efficiently.

Rule 234. All undistributed works shall be kept under lock and key in the possession of the Head Comparing Assistant and arranged in the serial order of applications relating thereto.

Rule 235. (1) At the close of each day, all original papers and all copies made during the day, if not delivered to the parties, as well as all stamp-papers, not yet used for copies, shall be taken back from the Copyists, Typists and Computer Operators secured for the night under lock and key in the almirah allotted to the Head Comparing Assistant. Care

should be taken to see that nothing remains with the Copyists, Typists and Computer Operators.

Note 1. The Judge-in-Charge should satisfy himself from time to time that this rule is being strictly followed every day.

Note 2. Separate space in the compartments of the almirah should be allotted to each Copyist, Typist and Computer Operator, and the papers taken back from the Copyists, Typists and Computer Operators should be kept in the spaces assigned to them

Note 3. The Head Comparing Assistant should from time to time go round the place where the Copyists, Typists and Computer Operators sit and see that outsiders are not permitted to enter the room.

(2) Surreptitious supplying of copies by Copyists, Typists and Computer Operations is strictly forbidden. If any one of them furnishes such copies shall be liable to be proceeded against departmentally. If it is proved to the satisfaction of the Judge-in-Charge that such practices are going on, whether responsibility can be fixed on any particular person or not, the Head Comparing Assistant should be warned that failure to check such abuses will be taken as an indication of inefficiency on his part and he will be severely dealt with.

Rule 236. (1) No carbon paper shall be allowed to be used in the Copying Department without the permission of the Judge-in-Charge and such paper found in the possession of the Copyists or Typists shall be forfeited

(2) If use of carbon paper be necessary, the Head Comparing Assistant shall issue it to the Copyists or Typists and withdraw it after the copies are made.

Rule 237. If any material error or omission is detected in a copy by the person to whom it has been supplied or by any Court before which it is filed for use, it should be promptly brought to the notice of the Judge-in Charge.

Note 1. Such errors brought to the notice of the Judge-in-Charge should be corrected after comparing with the original and initialed.

Note 2. The Judge in Charge should take such disciplinary action as he thinks proper against the lead Comparing Assistant or the Copyist or the Typist or the Computer Operator responsible for the copy. The responsibility for incorrect copies is also shared by the ``Authorized Person" who certifies the copy to be correct

Rule 238. (1) To protect the interest of the Government, care must be taken to see that all copies issued from the Courts are prepared on the prescribed stamp-paper, they must be written or typed or printed on one side of the sheet only, and must not contain more than the authorized number of words.

(2) The lead Comparing Assistant shall frequently check the number of words written or typed or printed on a folio and see that the applicants are not compelled to furnish a large number of sheets than is necessary.

(3) The Judge-in-Charge shall also from time to time check at random the prepared copies and see that each sheet does not contain more or less than the authorized number of words.

Note 1. It is the duty of each Copyist to copy as nearly as possible 150 English words or 150 Bangla words (i.e. one folio) and of each Typist or Computer Operator to type 300 English words or Bangla words (i.e. two folios of 150 words each) on each stamped-sheet. Copyists, Typists and Computer Operators violating this rule will be liable to disciplinary action

Note 2. When any application is made for the copy of a document in a language or character with which no Copyist or Typist or Computer Operator of the Court's establishment is acquainted, the Judge-in-Charge shall arrange, if possible, for a copy to be made thereof and compared with the original by such persons acquainted with the aforesaid language or character as forthcoming and may in his opinion is relied upon for the purpose

Rule 239. (1) The remunerations of the work-charged Copyists or Typists or Computer Operators employed under rule 227 shall be such as may be fixed and sanctioned by the Government from time to time.

(2) The payments made to the work-charged Copyists or Typists or Computer Operators shall be checked with the upper part of each stamp which, when the copy is ready, must be torn off each sheet along the perforated line and then endorsed with the Copyist's or the Typist's or the Computer Operator's name and the serial number of the application kept till the end of the month.

Note 1. The remuneration of a Copyist or Typist or Computer Operator shall not be affected by the fact that the copies are subsequently taken not after being ready for delivery.

Note 2. Urgent fees are to be credited to Government and no part of them is payable to the Typist or the Copyist or Computer Operator. Such fees shall be shown in Column 3 of the Annual Statement I, part-III in Form No. (S) 8.

Note 3. Folio heads must not be torn off and billed for before the copies are actually ready for delivery. Folio heads which can be allowed to be detached shall be marked with a date stamp before they are torn off by the Copyist, Typists and Computer Operator. But if extra Court fees or folios asked for, after any part of the copy has been made ready, are not filed within the time specified in sub-rule (3) of rule 269, the application for copy shall first be rejected and then be followed by the preparation of the bill for the portions made ready in the manner prescribed in this chapter.

Note 4. The number and value of the folios of copies delivered or ready for delivery up to the last date of the month as per Register of Applications for Copies should be totalled up at the close of every month and checked against the bills submitted by the Copyist, Typist and Computer Operator, in order to see whether the two agree with each other. Folios supplied during the month in respect of applications for copies which are not ready for delivery by the last date of the month, shall be carried over in red ink with the beginning of the month's page of the Register, or the serial numbers of such items should be marked with a note

in the remarks column in red ink showing the unused folios and the month in which they are to be billed for when copies are ready.

Note 5. The different columns for folios and stamps in the Registers shall be carefully filled in at the proper stages and a cross mark put into the columns remaining blank, all corrections being attested by dated initials. All the columns showing folios and stamps supplied, used and returned unused, shall be totalled up each month and it should be seen that the total number of folios supplied agree with those used and unused.

Note 6. To prevent the risk of stamp slips being used more than once the officer passing a Copyist's or Typist's or the Computer Operator's account shall, after checking it as directed, tear the slips to pieces and cause them to be burnt in his presence. A certificate that this has been done must be attached to the bill on which the Copyist's or the Typist's or the Computer Operator's remuneration is drawn.

Rule 240. Copy of the judgment to be forwarded under section 373 of the Code shall be prepared by the staff of the Court concerned.

Provided that when it is not possible to prepare such copy by such staff, the same may be prepared by the Copying Department as expeditiously as possible.

Rule 241. (1) Application by an accused for a certified copy of the judgment under sub-section (1) of section 371 of the Code shall be made before the Judge of the Court concerned who shall send the same to the Copying Department for necessary action.

(2) The Head Comparing Assistant shall treat the application as one for urgent copy.

(3) Uncertified copy of the judgment, if produced along with the application, shall, on all proper occasion and subject to the provisions of sub-section (1) of section 371 of the Code, be converted into a certified copy according to the procedure laid down in rule 279, in so far as the same may apply, without preparing a fresh copy.

Rule 242. All copies to be supplied free of cost under the Code shall be prepared on plain paper and it shall bear the seal of the Court with a certificate of authentication and the date on which the copy is supplied to the accused.

2. Presentation of Application for Copies

Rule 243. Parties to a criminal proceeding are entitled to obtain copies, certified or uncertified, of any portion of the record of trial or inquiry including such police papers as may be used as evidence at the trial or inquiry and final report submitted by the police under section 173 of the Code.

Note. Police reports on which proceedings are instituted under Chapters VIII and X of the Code shall form a portion of the record of the trial or inquiry.

Rule 244 (1). Every application for copy shall state whether or not the person applying is a party to the proceeding from the record of which

the copy is wanted. If such person is not a party, the application shall state the object for which the copy is required.

(2) As a general rule, copies of any portion of the record in a criminal proceeding shall not be given to the persons who are strangers to such proceeding except on good reasons.

Rule 245. All applications for copies for papers or documents shall be in Form No. (M) 27 signed in each case by the party requiring the copy or by his Advocate or authorized agent, and presented to the Judge-in-Charge of the Copying Department or some other Assistant designated by him for the purpose during the first two hours of the Court's daily sitting, except applications on which urgent fees have been paid which may be presented at any hour during the Court's sitting.

Rule 246. (1) If the party requiring copies of papers or documents be a prisoner in jail, he may submit his application for copy on plain paper and forward the same through the jail authority, signed by himself, to the Court in whose custody the papers or documents are lying.

(2) If the Court, receiving the application does not decide supply copies free of cost, it shall send the same to the Judge-in-Charge for the assessment of cost for such copies including the postage, and after assessment, shall intimate the prisoner through the jail authorities.

(3) On receipt of the cost assessed, copies shall be prepared and sent to the prisoner through the jail authorities.

Rule 247. Copies of printed or lithographed maps and plans shall not ordinarily be supplied by the Copying Department and for this purpose, application should be made in the office where the original maps are deposited.

Rule 248. Only one application is necessary when a copy is applied for, for any number of documents on the same record.

Note. For the purpose of this rule, records called for in connection with an original case or appeal will be treated as part of the record of such case or appeal.

Rule 249. Where, in the case of an application, doubts arise as to whether the document of which a copy is applied for is one of which a copy can or ought to be granted and in all cases where the applicant is not a party to the proceeding, the Head Comparing Assistant shall lay the application before the Presiding Officer of the Court concerned or the Judge-in-Charge of the Record Room, as the case may be, for his orders.

Rule 250. (1) Subject to other rules mentioned in this Chapter, copies shall not ordinarily be granted of documents which are themselves copies.

(2) A copy of a copy is to be granted only when good grounds are shown for not taking it from the original, that is, for not applying to the office where the original is kept.

(3) When copies of copies are granted, it shall be expressly indicated on the copy that it has been copied from a copy and not from the original.

Rule 251. (1) No copy shall ordinarily be given of any part of a document other than a public document. But a person desiring to have a

'copy of a part of a document 'not being a public document, shall state reasons thereof in his application.

(2) The Court may, in the circumstances mentioned in sub-rule (1), permit granting of a copy of a part of a document when such document consists of several distinct or independent parts or for any other sufficient reasons.

3. Preparation and Issue of Certified or Uncertified Copies

Rule 252. (1) Immediately on receipt of the application for a copy, the Assistant who receives it shall examine it and satisfy himself that it is in order and in accordance with the rules. He shall then sign it and pass it on, on the day of receipt, to the Head Comparing Assistant in the Copying Department

(2) On receipt of each application [Form No. (M) 27), the Head Comparing Assistant shall give it a serial (consecutive) number, stamp or note legibly the date of receipt on the top right hand corner and enter it in the "Register of Applications for Copies" [Form No.(R) 15), filling up accurately as many columns as can be filled up then.

(3) If it is possible at once to inform the applicant what Court fee stamps and folios will be required, and if stamps and folios have not been filed with the application, the Head Comparing Assistant shall note the requisite information on the back of the receipt portion and return it to the applicant.

(4) If the requisite stamps and folios have been filed with the application, the document or copy required to be copied shall be at once sent by the office with the application to the Copying Department.

Rule 253. (1) If the information cannot be given at once, the date on which the applicant is required to attend for the estimate should be entered in the counterfoil and also on the top of the application for future reference.

(2) The Head Comparing Assistant shall, at the time of returning the counterfoil to the applicant, inform him that his application will not be considered complete and that the preparation of the copy will not be commenced until he has supplied in full the Court-fee stamps and the necessary number of folios.

Note. The entries in the different columns of Register in Form No. (R) 15 as required by this and other rules in this Chapter must be made by the lead Comparing Assistant contemporaneously with the various stages through which the application for copy passes before its preparation and delivery.

Rule 254. (1) After entering the application in the prescribed Register, the Head Comparing Assistant shall at once, if possible, or during the same day but not later than the following day, ascertain the amount of Court-fee stamps payable for the copy applied for and the number of folios required for its preparation.

(2) For this purpose the Head Comparing Assistant shall forward the application by one of the Copyists or Computer Operators or Typists to the Assistant in whose custody the record is, who will at once note legibly or stamp thereon the name of his department and Court, the date of receipt, signing his initials there under and enter it in a Register to be kept in Form No.(R) 16. He shall refer to the document or record and with the assistance of the Copyist or Typist or Computer Operator conveying the

application, estimate the number of folios required for each document of which a copy is required. He shall then enter the amount of Court-fee stamps and the number of folios required in the space provided for the purpose on the application, sign and date it and return the completed application by the Copyist or Typist or Computer Operator to the Head Comparing Assistant. The document or record shall be kept ready for delivery to the Copying Department as soon as it is sent for preparing the copy. If the document cannot be traced out, the application should be endorsed with dated signature.

Note 1. This rule is not intended to allow Copyists or Computer Operators or Typists the right of entry into the Record Room, and they must, in all circumstances, be excluded there from. If the record from which copies are required is in the Record Room, the Copyist or Typist or Computer Operator should be shown the record in the Record-Keeper's office, and should not be permitted to handle it himself more than is necessary to enable him to assist in making the computation provided for in this rule.

Note 2. When an Office Peon is provided for the Copying Department, applications for copies may be sent through him to the Assistant in whose custody the record is, who shall make the record ready. A Copyist or Typist or Computer Operator shall be sent subsequently to collect the applications who shall assist the Assistant in making the estimate of stamps and folios.

Rule 255. The number of folios required shall be carefully calculated so as to obviate the necessary for obtaining additional folios from the applicants, a contingency which under a proper system ought never to arise.

Rule 256. Each Assistant through whose hands as application for copies passes, shall put his initials and the date and hour of receipt and passing on by him on the back of the application, in the space provided for the purpose and shall mention in the endorsement the name of the office to whom he delivers such application. These entries shall be made one below the other and must be legibly written. Each Assistant receiving an application shall at once comply with the requisitions or pass it on to another who can do so.

Note 1. Applications for copies must not be returned or rejected on frivolous grounds and it the particulars given are sufficient to indentify a record, every effort must be made to trace it out, even though the description as given in the application may in some respects be inaccurate.

Note 2. There should be no unnecessary delay in complying with the requisitions of the Copying Department.

Rule 257. Applications for copies should ordinarily be returned on the same day, and never later than the following day to the Head Comparing Assistant with the report required by the rules above.

Rule 258. On receipt of the necessary report under rule 254, the Head Comparing assistant shall at once fill up the appropriate columns of the Register in Form No. (R) 15 and estimate the number of impressed stamp sheets and Court fees required and note them in the middle portion of the application, and unless these have already been filed, shall notify the estimate to the applicant when he attends for it. The fact that the estimate has been notified, and the date shall be entered in the appropriate place provided for the purpose in the application and the applicant shall be required to sign his entry. If he does not attend the estimate within three

days from the date noted in the counterfoil, his application shall be rejected and a note to that effect shall be made in the Register in Form No. (R) 15.

Rule 259. If the requisite stamps and folios are not filed within three days of the notification in the prescribed manner, the application shall be rejected and a note to that effect shall be made in the Register in Form No. (R) 15. The person going round the offices to make estimate shall take with him the rejected applications and show them to the Record-Keeper or other Assistants concerned who shall sign the applications on the reverse and after restoring the documents or records to the proper places make the appropriate entries in columns 8, 9 and 10 of the Register in Form No. (R)16.

Note 1 It is open to the applicant to furnish the necessary stamp papers as soon as their probable number is known. Three days are considered to be reasonable time, but any delay shall be counted against him.

Note 2. Whenever an application is rejected after being presented, brief reason for doing so and the date should be noted in the appropriate column of the Register of Application for Copies.

Note 3. If an application has been rejected and the copy is still required, a fresh application must be filed and dealt with in the manner prescribed by these rules, as if the original application had not been filed.

Rule 260. When the stamps and folios are filed, a note to that effect and the date shall be entered in the place provided in the application for the purpose and the applicant shall be required to sign this entry. The applicant shall, at the same time, present the counterfoil of his application, which had been returned to him, and a memorandum shall be made thereon

stating the date and hour when the copy will be ready. A corresponding note shall also be made in the appropriate column of the application form. The applicant shall retain the counterfoil, and it shall be his duty to attend on the date fixed for the purpose of receiving the copy.

Rule 261. (1) After making the proper entries in columns 9, 12, 13 and 14 of the Register in Form No.(R) 15, the Head Comparing Assistant shall take the application or forward it by a Copyist or Typist or Computer Operator to the Assistant concerned having custody of the record with an endorsement requiring him to make over the necessary document or record. Such Assistant shall immediately hand over the original record or document with the application noting thereon the fact of compliance and ate The Head Comparing Assistant or the Copyist or Typist or Computer Operator receiving it shall put his dated signature in column 7 of the Register in Form No.(R) 15. The Head Comparing Assistant will then at once make necessary entry in column 11 of the Register in Form No.(R) 15.

(2) The person going round the offices to find the original record(s) or document(s) under this rule shall take with him the relevant record(s) or document(s) and records of which copies are ready and return them to the concerned Assistant who will make the necessary entries in columns 8 and 9 of the Register in Form No.(R) 16.

Note 1. Only those papers of the record of which copies are actually required are to be sent to the Copying Department and in every case, a removal slip shall be inserted in their place as laid down in rule 350.

Note 2. The person having custody of the record(s) or document(s) shall send the same to the Copying Department immediately on receipt of the requisition and there shall be no unnecessary delay. Cases of delay or

negligence shall be brought to the notice of the Judge-in-Charge by the Head Comparing Assistant.

Rule 262. (1) Immediately on receipt of the original papers, the Head Comparing Assistant shall make them over to one of the Copyists or Typists or Computer Operators for the preparation of the copy and enter his name in the appropriate column of the Register in Form No. (R) 15.

Note. The Copyists, Typists and Computer Operators must not start making copies before the requisite folios and stamps are realized in full.

(2) The Head Comparing Assistant shall so distribute the work amongst the Copyists, Typists and Computer Operators that no one of them has more than one day's work in his possession at one time.

Rule 263. Every application for copies of depositions in a case, which is being heard, shall be laid before the Trial Court for such orders as in its discretion it may make. If such Court so directs, so much of the deposition shall each day be given to the Head Comparing Assistant as there is reasonable hope of being copied in the course of the day. The Head Comparing Assistant shall return the portion of the deposition to the Court at the close of the day.

Rule 264. Every copy of deposition, judgment, order, report, or other documents shall show in the margin at the proper places the page numbers of the original within brackets.

Rule 265. Every page of a copy of deposition, judgment, order, report or other document shall also bear at the top in any appropriate place a serial number of the page.

Rule 266. Every copy of judgment or order shall commence with a heading containing the name of the Court and the name and official designation of the Presiding Judge or the Magistrate.

Rule 267. Every copy must bear the signature of the Copyist or Typist or Computer Operator making it and the date on which the copy was completed. It must also bear the signature of the Assistant who examined the copy and the date on which such copy was examined.

Note. Each page must be signed at foot by the Copyist or Typist or Computer Operator.

Rule 268. Every Copyist or Typist or Computer Operator shall note the number of words written or typed or printed by him on the back of each sheet, so that the Head Comparing Assistant or the Certifying Officer, who shall frequently check these entries and initial when checked may be enable to verify that more folios than are really necessary had not been used and that the stamp affixed in the case of certified copies is correct.

Note. Punctuation marks and the underlining of words shall not be taken into consideration in computing the number of words.

Rule 269. If and when it is ascertained that extra court-fees or extra folios are required for copies, the applicant should be informed of the amount of such court-fees or folios when he attends on the date on which the copy was originally notified to be ready, if it is not possible to inform him earlier. When the extra court-fees or extra folios are filed, the procedure laid down in rule 260 in so far as it is applicable shall be followed. If the extra court fees or extra folios are not filed within three days from the date on which the copy was originally notified to be ready, the application shall be rejected. When an application is so rejected, the fact shall be noted in the Register in Form No. (R) 15 and the original

documents and records brought for the purpose of preparation of copies shall be returned to concerned Assistants who will make the necessary entries in the appropriate column of the Register in Form No.(R) 16.

Note. Every date, on which extra folios are called for, shall be shown after the copy is prepared in the proper space at the back of the folios.

Rule 270. When the applicant complies with rule 269, a note shall be made on the application in the proper place showing the date and number of extra folios and the date and number and the value of the extra court-fee filed. This note shall be signed both by the applicant and by the Head Comparing Assistant who receives them, and columns 12, 13 and 14 of the Register in Form No.(R) 15 should at once be filled up.

Rule 271. A similar procedure should be followed with regard to the number and amount of court-fee stamps for certified copies, column 25 of the Register in Form No. (R) 15 being filled up.

Rule 272. In ordinary circumstances, a copy shall be supplied within the office hour of the 5" open day after the necessary court-fee stamps and folios have been put in.

Rule 273 (1). Urgent copies should be supplied on the day of the application, if possible, but not later than the office hour of the following day. Care, however, is to be taken that other applicants for copies do not suffer materially by this arrangement. If the granting of other copies is likely to be much delayed, an extra Copyist or Typist or Computer Operator, when available, may be temporarily appointed by the Judge-in-Charge for the number of days actually necessary.

(2) When an urgent copy is required, the extra-fees prescribed in the rules shall be levied and column 24 of the Register of Application for Copies [Form No. (R) 15] shall be filled up.

Note 1. Applications for urgent copies shall be entered in the Register in red ink.

Note 2. No application is complete until the necessary stamps and folios have been filed. When these are not filed with the application, the periods referred to in this rule and in rule 272 will be reckoned from the date of their being filed.

Note 3. If sufficient stamps and folios to cover the full charge of an urgent copy are not filed with the application, the estimate of the deficit in respect thereof shall at once be communicated to the applicant and the fact will be noted on the application and signed with date by the applicant. Where the applicant cannot be found, the procedure laid down in rule 269 will be followed.

Rule 274. All copies, whether certified or uncertified, must be carefully examined before issue, by a Comparing Assistant.

Note 1. The duty of examining copies should, as a rule, be entrusted to the Comparing or Examining Assistants or if there is none in the office, to the Head Comparing Assistant or the senior most Assistant of the office. The Copyist, Typist and Computer Operator must not be allowed to examine for each other.

Note 2. The Judge-in-Charge of the Copying Department should from time to time examine the copies prepared. It is of great importance that copies of documents issued by the Court should absolutely be free from error.

Rule 275 (1). The practice of making erasures by removing (i.e., scratching out or otherwise effacing) words written, typed or printed by mistake is strictly prohibited in regard to all copies. Instead of erasing the incorrect word, the word is simply to be struck through with one line by the pen and the correct word written above the word so struck through.

(2) All certified copies furnished by the Court shall be certified to be true copies and shall be sealed with the seal of the Court. The Certifying Officer shall see that all alterations and interlineations in the copy have been initialed by the Comparing Assistant and that the number of alterations and interlineations has been stated in the copy. Each sheet should also be intialled by him. The Certifying Officer shall sign in full and append to his signature the words "Authorised under section 76 of the Evidence Act, 1872".

Note 1. Name in full must be written in own handwriting and facsi mile stamp must not be used.

Note 2. The words "Certified to be a true copy. Authorised under section 76, of the Evidence Act, 1872" may be impressed by means of a stamp.

Note 3. Certified copies cannot be signed by any person other than the Certifying Officer. The officer authorised must certify the copy as true in his own name and with a statement of his official title as required by section 76 of the Evidence Act, 1872 and the Explanation thereto.

Note 4. The above certificate shall not be given on a blank sheet. If the last sheet has been fully exhausted by the copy, the certificate be given on its reverse.

Note 5. Uncertified copies should only be marked as "Examined" and initialled by the Examiner.

Rule 276. In the event of any copy being found to be unsuitable for issue by reason that it: -

(i) has not been clearly, legibly or neatly written or typed and with proper ink;

(ii) is not in the prescribed form;

(111) is so incorrect that revision has rendered it improper for issue;

(iv) does not conform to the rules and orders of the High Court Division; or

(v) is otherwise incomplete, defective or open to objection; the examining or certifying officer shall report the matter to the Judge-in-Charge of the Copying Department who will cancel the copy and require the Copyist or Typist or Computer Operator to make a fresh copy at his own cost.

Note 1. All copies, whether granted free of cost or on payment, should be written or typed legibly with good ink.

Note 2. Advocates or parties to whom copies are delivered should bring to the notice of the Judge-in-Charge when the copies are found to be inaccurate or not easily legible, or typed or printed.

Rule 277. All certified copies must be signed, if not by the Judge-in-Charge, then by the officer hereinafter mentioned: -

(a) at the headquarters of a district or a Metropolitan area, by such officer as may be appointed by the Sessions Judge or the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, and

(b) at outlying station, by an authorized Assistant of the Court of the Judicial Magistrate.

Rule 278. In the case of certified copies, the court-fee chargeable under the Court-Fees Act, 1870, shall be levied by affixing the necessary stamp to the first folio of the copy.

Rule 279. Uncertified copy may be converted into certified copy after comparison with the original, upon the application of any one producing it and upon his filing with such application the necessary court-fee stamps required by law; provided he is not debarred under the rules from getting a certified copy and the document is produced in its original state.

Note 1. An uncertified copy obtained from the Copying Department at one station may be converted into a certified copy by the Copying Department at another station; provided the original is available at the latter station when the copy is required to be certified.

Note 2. Copies with notes written on them or portions marked or underlined shall not be accepted for conversion into certified copies.

Note 3. If the original has been amended or added to, or if any order has been endorsed on it after the issue of uncertified copy, the uncertified copy cannot be converted into certified copy.

Note 4. When an uncertified copy is, under rule 279, converted into a certified copy, the costs of such copy and certification shall be recorded in the particulars required by rule 281 hereinafter.

Rule 280. The Officer certifying the copy shall in each case satisfy himself that the folios purporting to have been used in the preparation of the copy correspond with the number actually necessary under the rules and verify the correctness of the stamp affixed. He shall also check the entries in the Register of Applications in Form No.(R) 15, regarding the number of folios filed and used and see that the unused folios (if any) are attached to the copy and that correct details regarding the number of unused folios are entered on the back of the application in Form No. (M) 27.

Rule 281. When a copy is granted, the following particulars must invariably be recorded on the copy itself, and in the form given below: -

Date of application for copy.....

Date fixed for notifying the requisite stamps and folios .....

Date of delivery of the requisite stamps and folios .....

Date on which the copy was ready for delivery .....

Date of making over the copy to the applicant .....

Cost of copy .....

Note 1. Each date on which extra folios are to be notified and each date on which they are delivered shall also be recorded.

Note 2. When a copy is granted free of cost, the above particulars should also be recorded.

Note 3. The date on which a copy is ready for delivery is not necessarily the date on which it is certified. If it is certified at such a late hour that it cannot be made over to the applicant on the same day, the following day is to be considered as the date on which it is ready for delivery.

Note 4. In the case of a copy of a judgment or order, the dates excepting the date of making over the copy to the applicant, shall also be expressed in words.

Rule 282. When an uncertified copy is, under rule 279, converted into a certified copy, the costs of such copy and certification shall be recorded in the particulars required by rule 281 above.

Rule 283 (1) Care must be taken to have the copy ready in each case by the time fixed. The Head Comparing Assistant will be held personally

responsible that all originals are returned and a receipt for them obtained on the back of the application in Form No.(M) 27 from the Record Room or Court concerned on the day the copy is ready for delivery.

Note. The Head Comparing Assistant will be responsible for all records and documents until they are returned.

(2) In districts where it is not possible for the Head Comparing Assistant personally to perform all the duties under this Chapter, which have been allotted to him, they may be performed by another Assistant who will work under the immediate supervision of the Head Comparing Assistant, but the latter will be responsible for the proper performance of the duties in question.

Rule 284. (1) As the copies required under each application are completed, they shall be made over together with all unused folios and stamps to the Head Comparing Assistant, who shall attach the copies and all unused folios and stamps to the original application and note on the application the number of stamps and folios used.

(2) The copies and any unused folios and stamps shall be delivered to the applicants between 2.30 p.m. and 4.30 p.m. and until delivery, the Head Comparing Assistant shall be responsible for their custody.

(3) On the original applicant's handing over the counterfoil, the Head Comparing Assistant shall make over to him the copy and unused folios and stamps after taking the applicant's dated signature on the reverse of the application; at the same time column 28 of that Register must be filled in.

Rule 285. (1) If the applicant, in any case, fails to appear to claim either the copy or the unused folios and stamps (if any) before the last day

of the month succeeding that on which the copy was ready for delivery or if he fails to put in the extra court-fee or extra-folios and stamps, where necessary, within the period prescribed in rule 269, such copy and unused folios and stamps shall be destroyed in presence of an Assistant authorised by the Judge-in-Charge. The fact of destruction and the number of unused folios and stamps thus destroyed shall be noted in the remarks column of the Register in Form No. (R) 15.

(2) In any case in which copy is refused or cannot be granted, the folios and the stamps supplied by the applicant shall be returned to him when he is so informed. This should be done also where the application is withdrawn and the folios and stamps have not been used. Such stamps would not include searching fee and urgent fee affixed to the application.

Rule 286. Applications for copies which have been complied with shall be recorded in the Copying Department and filed in the order of their admission in a separate series for each month. At the close of each quarter, they will be examined by the Judge-in-Charge himself or any officer authorized by him and note down all irregularities, if any, apparent in the department. The Judge-in-Charge after satisfying himself as to the working of the office by an inspection of the forms recorded, shall then direct their destruction.

4. Preparation and Issue of Photocopies

Rule 287. (1) The Copying Department which is provided with the facility of an Electro Photo Printing Machine for preparation of copies may, on application, supply Photo copy of judgment, order, deposition, exhibited documents, etc.

(2) Photo copies will be certified to be true in the manner provided hereinafter referred to. Necessary authentication fee shall be realized for the purpose.

(3) Searching fee also shall be payable, wherever necessary. Provided that one searching fee shall be charged for any number of copies taken from same record and included in the same application.

Note. "Photo copy" for the above purpose means and includes a copy made by any type of Electro Photo Printing Machine.

Rule 288. An application presented in Form No. (M) 27 under Rule 245 for copy of any of the documents mentioned in rule 287 shall contain at the top of the application a writing or endorsement 'Photo Copy' where the applicant desires to obtain a Photo Copy of such document. In the absence of any such writing or endorsement in the application, it will be treated as an application for obtaining a hand-written or typed or printed copy of the concerned document.

Rule 289. Where an application is made for a Photo copy of a document of which no such copy can be furnished under rule 287, the same shall be rejected forthwith keeping a note with the date in column 29 of the Register in Form No.(R) 15 about the reason of rejection.

Rule 290. (1) On receipt of each application for Photo copy, the Head Comparing Assistant shall give it a serial (consecutive) number, stamp or note the date of receipt of the application on the top right hand corner and enter it in a Special Register of Applications for Photo copies in Form No. (R) 15. If the estimate cannot be furnished at once, the Head Comparing Assistant shall enter in the counter foil of the application and also on the top of the application, the date on which the applicant is

required to attend for the estimate and shall then return the counter-foil to the applicant.

(2) The serial number given to every application for Photo copy shall invariably start with the capital letter 'P' to denote that the number relates to application for Photo copy e.g. Sl. No. P1, P2, P3 etc.

Rule 291. (1) After entering the application in the prescribed Register, the Head Comparing Assistant shall at once forward the application to the Assistant in whose custody the record or document is, who will promptly send the required document to the Copying Department after necessary entries are made in the Register in Form No. (R) 15.

(2) While sending the original judgment, order, deposition, exhibited document, etc., to the Copying Department, the Assistant sending the same shall see that such document bears the contents of the cause title of the proceeding

Rule 292. On receipt of the required document from the concerned office, the Head Comparing Assistant shall, with the help of the Photo Machine Operator, estimate the court-fee stamps and the number of Photostat folios required and note the same in the middle portion of the application, and shall notify the applicant when he attends for it. The fact of the charge having been notified and the date thereof shall be entered in the appropriate place in the application and the applicant shall be required. to sign this entry. In notifying the fees chargeable for the Photo copies applied for, the Head Comparing Assistant shall include such charges, such as the charges for the cause title at the rates mentioned in Rule 299 hereinafter provided (except the searching fee). When the document is a judgment or order, copy of the complete cause title of the proceeding from which the copy is sought, shall be supplied along with the copy applied for.

The provisions of this Chapter regarding the estimate of court-fees stamp and folio shall be applicable. If the applicant does not attend or file requisite stamps within three days from the date noted in the counterfoil, his application shall be rejected and a note to that effect shall be made in the concerned Register in Form No.(R) 15.

Note. 'Photo folio' for the purpose of this Chapter shall mean Photo paper sheet.

Rule 293. (1) When the original document has been received and the requisite court-fee stamps are filed, the Head Comparing Assistant shall specify and make over the document to the Machine Operator for preparation of Photo copy and make necessary entries in the Register in Form No. (R) 15.

(2) The Machine Operator shall then obtain the requisite number of Photo folios from the Head Comparing Assistant or the staff authorized by the Judge-in-Charge Copying Department, for the purpose and shall at once proceed to make the required Photo copies.

Rule 294. The Machine Operator shall certify specifying the date of preparing the copy that he has prepared the photo copy. The copy shall also bear the signature of the Assistant who examined the copy and the date on which such copy was examined.

Note. It shall be the duty of the Assistant examining the copy to check whether any portion of the original document including page number, if any, has been excluded or omitted from the copy. In case, any such exclusion or omission is detected, the copy shall be cancelled and a fresh copy shall be made.

Rule 295. All Photo copies supplied by the Court shall be certified to be true copies and shall be sealed with the seal of the Court. The

Certifying Officer shall write his name in full in his own handwriting. The words "Certified to be true copy. Authorized under section 76 of the Evidence Act (Act 1 of 1872)" may be impressed by means of a stamp.

Rule 296. When a Photo copy is granted, the following particulars must invariably be recorded on the back of the first sheet in the form given below:

1. Date of application for copy .....
2. Date fixed for notifying the requisite stamps .....
3. Date of delivery of the requisite stamps ....
4. Date on which the copy was ready for delivery.....
5. Date of making over the copy to the applicant .....
6. Cost of copy…….....
7. Number of Photo paper sheets used…….

Rule 297. After the Photo copy required under each application is completed, it shall be made over to the Head Comparing Assistant who shall attach the copy to the original application and note on the application the stamps and the number of Photo paper sheets used. He shall also simultaneously note the number of such sheets used in making the copy in the 'Remarks column' of the Register in Form No. (R) 15 under his dated signature

Rule 298. When Photo copy of a judgment or order is supplied, such copy shall include the contents of the cause title of the proceeding relating to such judgment or order.

Rule 299. For each sheet of Photo copy, a Government fee of Tk. 2/- (two) shall be charged and the same shall be payable by court-fee stamps. The first sheet of the copy will leave sufficient space for pasting of

necessary court-fees. The court-fee stamps chargeable for the particular Photo copy shall be pasted on the front portion of the first sheet of the copy and each stamp shall be punched. The pasting and punching of court-fee stamps shall be done by or under direct supervision of the Head Comparing Assistant when the Photo copy, after preparation, is returned to the Head Comparing Assistant by the Machine Operator.

Rule 300. (1) The Photo copies shall be made only on one side of the sheets and not on both sides.

(2) Authentication certificate shall be appended at the end of the copy without leaving any unnecessary blank space above it.

(3) At the bottom of each page of the copy, the Head Comparing Assistant shall mention the application number and shall put his dated signature.

(4) In making the copy, care shall be taken to cover each sheet of Photo copy as fully as possible so as to leave no unnecessary blank space except reasonable margin. However, any blank space appearing for any unavoidable reason shall be penned through before issuing the copy.

Rule 301. In matters relating to filing of applications, preparation of copies and other matters incidental thereto or connected therewith, which are not specifically dealt with in the rules contained in this Chapter under the head "Copying Department shall be applicable as far as possible, as if they form part of this Chapter.

CHAPTER XV

LEGAL PRACTITIONERS

1. Vokalatnama

Rule 302. (1) Subject to the provisions of sub-rule (2), all Advocates,

defined in clause (a) of sub-section (1) of section 4 of the Code, appearing on behalf of either the prosecution or the defence in all classes of criminal cases including appeals and revisional or miscellaneous applications, in all Criminal Courts, shall file Vokalatnamas.

(2) The following persons shall not be required to file any Vokalatnama: -

(a) Public Prosecutors, Additional Public Prosecutors, Special Public Prosecutors and Assistant Public Prosecutors appearing on behalf of the State.

(b) Advocate assigned by the Court for the defence of the accused person(s).

(c) Advocate appointed with the permission of the Court to act in a proceeding

(3) An Advocate at the time of acceptance of his appointment shall also endorse on it his address for the service of notice etc.

Rule 303. (1) Vokalatnama shall be executed by the party to the proceeding or by a person duly authorized by him by power-of-attorney to act on his behalf.

Note1.Vokalatnama executed by the party himself or by his attorney shall not be required to be verified on oath. The responsibility in regard to all such document being properly and correctly executed shall rest entirely with the legal practitioner concerned.

Note 2 No Advocate shall plead in any case unless he has been engaged for that purpose by another Advocate, duly appointed to act for the party.

Note 3. When the party cannot sign his or her name, the Vokalatnama must be endorsed as follows:

1, ..., do hereby appoint……. Advocate to act for me in the above named cause, in token whereof I have put my thumb-impression in the presence of .....

(thumb-impression)

and I, ……, do hereby attest the above thumb-impression as having been made in my presence by ..... , who is known to me.

.....

(signature)

Note. 4 No Advocate shall receive a Vokalatnama from a person who is unable to sign his or her name, unless it bears an endorsement in the manner prescribed by note 3 of this rule.

(2) No Advocate shall receive a Vokalatnama from any person other than the party himself or a person duly authorized by power-of-attorney, or his agent, relation or friend or an Advocate specially authorized in writing in that behalf.

Note 1. The written authority should be in the following manner: -

1, ..., do hereby authorize ....., my relation/agent/Advocate, etc. to deliver the accompanying Vokalatnama to ....., my duly appointed Advocate in the above named cause.

.....

(Signature or thumb-impression)

Note 2. The authority may be endorsed on the Vokalatnama itself.

(3) Where there are more parties than one and they desire to appear by separate Vokalatnamas, the Vokalatnama of one may be received from

any other similarly authorized, but if they desire to appear by one and the same Vokalatnama, it may be received from any one of them or from a person duly authorised by any one of them without special authority from others.

(4) More than one Advocate may appear by a single Vokalatnama provided that-

(a) the name of each Advocate appears in the Vokalatnama and he signs in acceptance thereof, and

(b) in the case of an Advocate appearing subsequently, the permission of the Presiding Officer of the Court is obtained.

Rule 304. (1) No Advocate without accepting in writing a Vokalatnama and filing it in the Court shall act in any case for any party.

(2) A Vokalatnama, which has been filed in Court may subsequently with the permission of the Presiding Judge, be accepted by an Advocate, whose name appeared in it at the time when it was first filed; in the case of such subsequent acceptance, the endorsement shall contain the same particulars as are required in the case of the first acceptance under rule 306.

Note. An Advocate's Clerk cannot transfer Vokalatnama to any Advocate.

(3) A party, who has retained an Advocate to appear and act for him and appointed him by execution of a Vokalatnama, cannot be heard in person, unless he first withdraws the Vokalatnama and determines the appointment in the manner laid down in rule 307.

Rule 305. The Courts accept Vokalatnamas on the responsibility of the legal practitioners filing them. An Advocate accepting a Vokalatnama

purporting to be executed by his client in person is bound to satisfy himself as best he can that it was so executed. When it purports to be executed by a third party, on behalf of his client, he is bound to ascertain that such person has been duly empowered by the client to appoint an Advocate, as the case may be, and has himself executed the document.

Rule 306. Every Advocate filing a Vokalatnama shall endorse on the back of it with his own hand the following particulars: -

(i) the date of acceptance,
(ii) the name of the person from whom it is received, and
(iii) if such person is not the client himself, the precise nature of the authority of that person with date of the authority.

Note 1. Bench Assistant and other Assistants who are authorized to receive Vokalatnamas must in every case satisfy themselves that the endorsements are properly made and contain all the particulars required by this rule.

The name, of the person from whom the document is received must always be given and it is not enough to describe him as prosecution or defence, complainant or accused.

Note 2. Subsequent acceptance of a Vokalatnama already filed shall also be endorsed with the same particulars under the three heads (i), (ii) and (iii).

Rule 307. (1) The appointment of an Advocate shall be deemed to be in force until determined with the leave of the Court on a written application by the party or the Advocate and filed in Court, or until the party or the Advocate dies or until all proceedings in the case are ended so far as regards the said party.

(2) For the purpose of sub-rule (1), a case shall be deemed to mean every kind of inquiry, trial or proceeding before a Criminal Court, whether instituted on a police report or otherwise, and applications

(i) for bail or reduction, enhancement or cancellation of bail;
(ii) for transfer of the case from one Court to another;
(iii) for stay of the case pending disposal of civil or criminal proceeding in respect of the same transaction out of which the case arises;
(iv) for suspension, postponement or stay of the execution of the order or sentence passed in the case;
(v) for the return, restoration or restitution of the property as per the order of disposal of the property passed;
(vi) for appeal against an order for acquittal passed;
(vii) for revision or appeal against any order or sentence passed;
(viii) for a reference arising out of the case;
(ix) for making concurrent sentences awarded in the case or in an appeal, reference or revision arising out of the case;
(x) relating or incidental to or arising in or out of any appeal, reference or revision arising in or out of the case;
(xi) for obtaining copies of documents or for the return of articles or documents produced or filed in the case or in any of the proceedings mentioned hereinbefore;
(xii) for withdrawal or refund or payment of money deposited in the Court in connection with the case or any of the proceedings mentioned hereinbefore;
(xiii) for refund of money paid or recovered as fine, or for the return, restitution or restoration of the property forfeited or confiscated in the case or in any appeal, reference or revision arising out of the case as per final orders passed in that behalf;
(xiv) for expunging remarks or observation made in the judgment

or any order in the case or any appeal, reference or revision, arising out of the case; and

(xv) for sanctioning prosecution under Chapter XXXV of the Code or any appeal or revision arising from and out of any order passed in such an application or proceedings.

Rule 308. No fresh Vokalatnama shall be demanded in the Court of Session at the trial of a criminal case from an Advocate who appeared by a Vokalatnama during any inquiry before the lower Court, provided he files in the Court of Session, a declaration to that effect.

2. Public Prosecutor

Rule 309. Whenever the Public Prosecutors, Special Public Prosecutors, Additional Public Prosecutors or Assistant Public Prosecutors apply for leave, they shall do so under intimation to the respective Courts.

Rule 310. The District Magistrate shall make adequate arrangements in view of sub-section (2) section 492 of the Code for representing the prosecution in Courts whenever the Public Prosecutor, Special Public Prosecutor, Additional Public Prosecutor or Assistant Public Prosecutor, as the case may by, is absent.

CHAPTER XVI

MISCELLANEOUS FEES AND CHARGES

1. Searching-Fees & Charges for Copies

Rule 311. The following charges shall be levied for inspection, information and copies.

Name of the	Cases in which to be paid	Amount	How to be paid

fee or charge			

(1) Searching Fees.	(a) On all applications-	Taka	
	(i) For information whether the record is deposited in the Record Room or not. Note 1.-This shall be the fee required on such application in addition to the fee prescribed by the Court Fees Act.(VII of 1870). One searching fee only shall be charged for any number of items of information taken from the same record or Register and included in the same application. **Explanation** "Same Register" includes any number of volumes of the same class for any one year but not different classes of Registers through of the same year. Note 2.- Only one searching fee shall be charged in respect of an application for information required in connection with a single cause or matter, even though the search involves reference to several records or Registers. A separate application shall, however, be required and a separate fee charged in respect of information required in connection with every separate cause or matter.	2.00	By a Court fee stamp to be affixed on the application.
	Note3.-See note 5 to clause (iv) application with a single Court	2.00	By a Court fee stamp to be affixed on the application.

	(ii) For inspection where the record is deposited in Record Room. Note.- No searching fee shall be charged for inspection of records of pending cases by Advocates. (iii) Expedition fee for urgent application for inspection and information. (iv) For copy of all documents certified or uncertified and extracts from Registers (in addition to the prescribed fee under Article 1 (a) Schedule II of the Court Fees Act, 1870) except such copies as the law requires to be given free of costs. Provided the same fee should be charged on an application for conversion of an uncertified copy into a certified one under rule 279. Note 1.-(a) No searching fee all be charged in respect of application for copies of papers in the records of cases filed within the time specified in rule for transmission of records to the Record Room of Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or chief Metropolitan Magistrate. (b) No searching fee shall be charged in respect of copies of papers in the record of the trial Court when such record is with the appeal pending against the decision in the original case. (c) No searching fee shall be	5.00 2.00	By a Court fee stamp to be affixed on the application. Ditto

	charged in respect of an application for a copy of any document from the records of a disposed of case and marked as exhibit in a pending case.		
	Note2.- One searching fee only shall be charged for any number of copies taken from the same record or Register and included in the same application. [For the meaning of 'same Register' See Note 1 to clause (a).]	2.00 4.00	
	Note 3.-Only one application with a single Court fee stamp under Article 1(a), Schedule of the Court Fees Act, 1870, is necessary when a copy is applied for any number of documents on the same record; but when copies are required of documents in more than one record, there must be separate application with a separate stamp for each.		
	Note 4.-Records called for in connection with original case or appeal or revision will be treated as part of the record of such case of appeal or revision.		
(2) Copying Charges	Note 5.- Applications for copies and information will ordinarily be rejected unless the applicants furnish details from which the documents to be copied or papers containing the information can be readily located. If applications are granted without such details being furnished the Judge in charge or the Presiding Officer, as the case may be, may assess the searching fees at his discretion, regard being had to the time likely to be	2.00 In addition to the fee prescribed under the Art. 1 (a) Sh.II Court Fees Act. 2.00	By means of a Court fee stamp to be sent unpunched to the High Court Division with the requisition

	involved in the search.		
	(v) For sending for a record document from the High Court Division, Appellate side.	2.00 per foloio consisting as nearly as possible of 150 words English, or 150 words Bangla, four figures counting as one word.	By means of a Court fee to be remitted unpunched to the Collector.
	(vi) For sending for documents and the like involving a search in the Collectorate or other revenue offices. (a) Manuscript copies whether certified or uncertified (b) Typed copies (in English or Bangla) whether certified or uncertified containing- (i) 150 words or less ..... (ii) Exceeding 150 works but no exceeding 300 words. (iii) Exceeding 300 words.	2.00 4.00	By means of an impressed stamp of Taka 2.00 on each sheet of paper corresponding with the folio to be provided by applicant for a copy. Each sheet shall contain a folio, i.e., as nearly as possible 150 words English or 150 Bangla. By means of the same impressed stamp paper of 2.00 Taka with an adhesive stamp of 2.00 Taka affixed thereto across the perforated line on the top of the sheet of the impressed stamp paper, so that the figure head may

			be above the perforated line and that the portion below may clearly show the value. By means of an additional impressed stamp paper or papers of 2.00 Taka with an adhesive stamp of 2.00 Taka affixed thereto, if necessary, according to the number of words to be typed.
	(c) Expedition fee for urgent application for copy.	3.00 extra (or, if the copies exceed 4 folios, of 1.00 Taka for each folio)	By means of Court fee stamp to be affixed to the application By means of Court fee stamp to be affixed to the application By a Court fee stamp to be affixed on the application. Note1. Punctuation marks and the underlining of words shall not be taken into consideration in computing the number of words; but a line ruled across a page by a Typists may be counted as one word. Note 2.- As there

			are 25 lines in each sheet, each lines shall contain as nearly as possible 6 words English or 8 words Bangla. By means of an impressed stamp paper of 2.00 Taka.

			By means of same impressed stamp paper of 2.00 Taka with an adhesive stamp of 2.00 Taka affixed thereto across the perforated line on the top of the sheet of the impressed stamp paper, so that the figure head may be above the perforated line and that the portion below may clearly show the value. By means of an additional impressed stamp paper or papers of 2.00 Taka with an adhesive stamp of 2.00 Taka affixed thereto, if necessary, according to the number of words to be typed.
	(d) Expedition fee for urgent application for conversion of an uncertified copy.	4.00 Taka extra (or if copies exceed four folios, at the	Note 1.- The adhesive stamp copies shall be loose by the

		rate of 1.00 Taka for each folio).	parties and affixed in the Copying according to necessity. Note 2. Impressed stamp sheets shall never be received and cancelled in lieu of adhesive stamp Note 3.- In the certified copies, the Court fee chargeable under Court Fees Act. 1870. shall be levied by affixing the necessary stamp to the first folio of the copy By means of Court fee stamp to be affixed to the application By means of Court fee stamp to be affixed to the application

Explanation. Plain papers with court-fee stamps of proper value may, until further orders, be also used instead of impressed Stamp Paper or folio referred to in this and subsequent rules. When such a plain paper with court-fee stamps is filed, the stamp is to be affixed perpendicularly with

the effigy at the top left side of the plain paper for convenience of detachment of the effigy portion of the court-fee stamp, for the purpose of the remuneration bill of the work-charged Copyists, Typists and Computer Operators

Rule 312. (1) In the case of documents, such as measurement papers, order sheets, accounts, Registers and others which are not written continuously like a deposition, or which are not written right across the page, every endeavour should be made to write as many as 150 English or Bangla words on each folio.

(2) If it is found impossible to do this on each folio without distorting the form of the original documents, as many additional sheets of plain cartridge paper as may be necessary (to be provided by the applicant for the copy) should be pasted on below, or at the side of the first sheet.

(3) In consideration of the additional time and trouble involved in copying documents of the nature described above, an additional charge may be levied from the applicants according to the following scale: -

In all cases requiring more than three folios, one additional folio may be taken for every four folios, that is to say, one additional folio may be taken in cases requiring four to seven folios, two additional folios in cases requiring eight to eleven folios, three additional folios in cases requiring twelve to fifteen folios, and so on. No additional charge should be levied in cases which require from one to three folios.

Rule 313. No fees are to be demanded or paid for searching for or copying or typing papers required by Public Officers for public purposes and the copies in such cases are to be made on plain papers by the Copying Department.

Note. Local bodies and Managers under the Court of Wards are not to be treated as Public Officers for the purpose of this rule.

Rule 314. (1) In the case, of maps and plans, no general rule can be laid down. In each case, a reasonable charge shall be fixed by the Judge-in-Charge of the Copying Department with reference to the skill required, the difficulty or intricacy of the work involved and the time that it may occupy.

Note 1. Materials include tracing cloth, drawing instruments, paints, pencils, brushes, pins, etc. The probable costs of materials are to be supplied by the parties separately.

Note 2. The charges for copying maps and plans should be realized in court-fee stamps as in the case of ordinary copies of documents.

(2) Authenticated copies of maps or plans even if they contain words are chargeable with a duty under Article 24 of Schedule 1 of the Stamp Act, 1899, such duty being leviable in addition to and irrespective of the cost of preparation of the maps or plans. The stamp duty payable under the above article for copies of maps or plans certified to be true copies shall be denoted by means of an adhesive court-fee stamp.

Rule 315. No fees are to be demanded or paid for searching for or copying or typing papers required by the National Legal Aid Committee or the District Legal Aid Committee. In such cases, the copies are to be made on plain papers by the Copying Department. Application coming from the said Legal Aid Committees should be treated as urgent applications

Rule 316 (1) A complainant shall pay the copying fee whenever he is in requirement of copy.

(2) An accused shall, except in cases where he is entitled to get copies free of cost under the Code, be required to pay copying fees for the copies required by him.

Rule 317. (1) One half of the copying fees of maps etc. after deducting from the total, the cost of tracing paper is to be paid to the Copyist from the office, the other materials such as paints, pencils, brushes etc. which may be required being supplied by the Copyist himself and no separate charge for those articles is to be levied from the private parties.

Note. The applicant may supply the tracing paper or he may have it purchased by the mappist on payment of the price.

(2) In the case of urgent copies of maps and plans the urgent fee will also be fixed by the Judge-in-Charge of the Copying Department to be paid by means of court fee stamp affixed to the application for copy.

Note. - No part of the urgent fee shall be paid to the Copyist.

2. Fees for Affidavits

Rule 318. (1) Subject to the provisions of sub-rule (2), the charge for administering the oath to the deponent in the case of any affidavit under the Code shall be Tk. 10/- in all Criminal Courts in Bangladesh. This charge shall be paid by means of court-fee stamp and will be credited to the Government.

(2) No charge should be made in respect of the following affidavits: -

(i) Affidavits, if any, made by Process-servers deposing as to the manner of service of processes.

(ii) Affidavits in proof of service or as to avoidance of

service made by persons, if any, who accompany such Process-servers.

(iii) Affidavits made by the Public Officers in virtue of their office.

(iv) Affidavits made by identifier of a Pardanashin woman when such affidavit is required.

(3) Fees realized in respect of affidavits under this rule should be shown in columns 3 and 6 of the Daily Register of court-fees in Form No, (R) 9.

Note. Affidavits not covered by sub-rule (1) will be charged under article 4 of Schedule I of the Stamp Act, 1899,

3. Fees of Foot & Finger Print Expert and the Government Examiner of Questioned Documents

Rule 319. (1) When a Foot or Finger Print Expert of the Criminal Investigation Department is summoned to give evidence in a complaint case or his opinion is sought therein, a fee of Tk. 100 (one hundred) shall be charged for the opinion together with the day(s) spent for giving evidence shall be realized from the party concerned. These amounts shall be credited in full to the Treasury by the Court concerned. He should also be treated in such cases as a Government servant on tour within the meaning of Chapter V of the Bangladesh Service Rules, part-II. However, his travelling allowances at the Government rate shall also be realized from the party concerned and be made over to the expert by the Court.

(2) If it is necessary to make photographs or enlargements, a fee of Tk. 100 (one hundred) shall be charged for each copy.

Rule 320. (1) Where the Government Examiner of any questioned document or his Assistant is summoned to give evidence or his opinion is sought in a complaint case from a private party, a fee of Tk.350 (three hundred fifty) which will be an inclusive fee normally covering the opinion, the cost of photographs and the giving of evidence shall be realized from the party concerned in addition to the travelling expenses of the officer at the rates laid down for first-grade officers in the Supplementary Rules of the Government for journeys on tour. Travelling allowance will also be payable for the class IV employees accompanying the officer at the rates fixed for the Government of Bangladesh Class IV employees.

(2) In cases where the cost of photographs is exceptionally heavy, the fee will be Tk. 350 (three hundred fifty) plus the actual cost of the photographs.

(3) In cases in which no opinion is given but photographs are taken, only the actual cost of the photographs shall be charged. No reduction in the fee shall be allowed, if evidence is not required or is taken on commission. An additional fee of Tk. 250 (two hundred fifty) shall be charged for each day after the first day on which evidence is given, whether in Court or on commission.

(4) In cases in which examination has been completed but no opinion can be expressed, a consolidated fee of Tk. 200 (two hundred) will be charged

(5) The fee is payable in advance and shall be credited in full to the Government Treasury by the Court concerned which will certify that the amount covering the travelling expenses of the officer and the class IV

employees accompanying him has been deposited before the journey is undertaken.

4. Cancellation of Court Fee Stamps

Rule 321. (1) Each Judge should, under section 30 of the Court Fees Act, 1870, formally appoint an Assistant for the purpose of cancelling stamps. That Assistant, who should ordinarily be the Bench Assistant, shall personally attend to and be personally responsible for the strict fulfillment of the duty of receiving documents to be filed, examining the correctness of the stamps attached thereto, and immediately cancelling such stamps as required by section 30 of the Court Fees Act, 1870. Trust-worthy employee should be appointed to do the mere manual work of cancelling the stamps, subject to the approval of the Presiding Officer of the Court; but the Assistant concerned will be personally responsible for the due execution of the duty and for any defalcation or fraud that may occur in connection with it.

Note 1. The Presiding Judge should see that punching is done immediately on presentation of the petitions in Court at a place open to his view from his seat on the Bench.

Note 2. The date stamp should be applied in such a manner as to cover or touch some parts of the adhesive stamps, but not in such a way as to obliterate the entries thereon or to render the detection of forgeries more difficult.

Note 3. If the document is insufficiently stamped, the date stamp should not be applied to the stamps on it, nor should the stamps be cancelled by punching out the figure-head. The documents should be

returned to the parties concerned for re-submission after being properly stamped.

Rule 322. Rigid compliance with the provisions of section 30 of the Court Fees Act is not always necessary and attention is called to the Circular Order of the Board of Revenue reproduced in rule 325 below. In all cases, it should be carefully seen that the figure-heads of the court-fee stamps are punched out, that the pieces are destroyed, and the stamps registered against the documents to which the stamps are attached are filed or acted upon.

Note. Every Judge should inspect and test the work of his Assistants from time to time so as to ensure attention to their duty and to limit opportunities for fraud. An efficient check should be kept on any attempt to defraud the Government by removing used court-fee stamps from records and using them again later, if each Presiding Judge would examine daily some of the records he handles and if he also examines periodically bundles of records of cases dealt with by him, taken out at random from the shelves in which they are placed.

Rule 323. All stamps, on records of cases disposed of which are not required to be sent to the Record Room of the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, must be punched a second time with a triangular punch by the Assistant-in-Charge of the files who should at the same time note the date of his doing so. The second hole in each label should be distinct from the first and the re-punching should not remove so much of the stamp as to render it impossible or difficult to ascertain its value or nature.

Rule 324. The concerned employee of the Court issuing copies, certificates or other similar documents shall, before issue, cancel the labels and punch the court-fee stamps affixed to them together with the court-fee stamp required for such copy by law (see Articles 6, 7, 8 and 9 of Schedule I of the Court Fees Act, 1870, in the manner directed by paragraph III of the Circular of the Board of Revenue reproduced in rule 325 below. If the application is disallowed, or if, before the copy is made the applicant intimates that he does not require it, such court-fee stamp may be returned to him, a note of this having been made in the Register and signed by the concerned employee and the applicant.

Note 1. Stamps affixed to affidavits presented to a Commissioner for the purpose of administering an oath or affirmation to the deponent, should be dealt with in the same manner as the stamps on copies, certificates, or other similar documents liable to stamp duty.

Note 2. Every Judge should make an occasional inspection of documents that have been filed in the records of pending and disposed of cases, in order to ascertain that the stamps have been properly punched and defaced, and have not been subsequently removed from the documents on which they have been used. It should also be observed whether proper court-fee has been realized in respect of documents and processes liable to stamp duty. The inspection should be made at least once a quarter and the result recorded. The check herein prescribed applies equally to all papers which require adhesive labels, and they should be subject to similar scrutiny.

Rule 325. The following is the Circular Order issued by the Board of Revenue and referred to in rules 322 and 324 above.

I. Cancellation of Stamps-Local officers should direct their particular attention to the provisions of section 30 of the Court Fees Act, 1870, regarding the cancellation of stamps used under that Act. The personal responsibility of the officer who gives any order to see that the stamp affixed under Act VII of 1870 is punched before he takes action is clear from section 30 of the Act, and must be enforced. The punch to be used by the receiving Court or office must be round. The pieces punched out shall be immediately destroyed, so as to prevent their being fraudulently used.

II. Second punching by Record-Keeper (Revenue Circular, February, 1892)- The Record-Keeper of every Court or office shall, when a case is decided and the record consigned to his custody, punch a second hole with a triangular punch in each label distinct from the first, and at the same time note upon the fly-leaf the date of his doing so. The second punching should not remove so much of the stamp as to render it impossible or difficult to ascertain its value or nature.

These directions apply only to adhesive labels used under the Court Fees Act. Impressed stamps used for denoting court-fees need not be cancelled or punched otherwise than as required by section 30 of the Court-fees Act.

III. Cancellation of stamps in copies-The Court or office issuing copies, certificates, or other similar documents liable to stamp duty shall, before issue, cancel the labels affixed to them by punching out with a square punch a portion of the label in such a manner as to remove neither the figure-head nor that part of the label upon which its value is expressed. As an additional precaution, the signature of the officer attesting the

document, with the date, should be written across the label and upon the paper on either side of it, as is frequently done by persons signing stamped receipts. The stamp shall be punched at the time of attesting the document. An impression apparently exists that the hole, which is punched by the issuing Court or office in the stamp label affixed to copies, certificates, etc., under the preceding order, does away with the necessity for cancellation by punching out the figure-head under section 30 of the Act by the Court or office in which the copy or certificate, etc., may be produced or filed, but this view is incorrect, and it will be readily understood that the orders in question cannot override the express provisions of the Act.

CHAPTER XVII

INSPECTION OF RECORDS NOT SENT TO THE RECORD ROOM

Rule 326. No record or paper not deposited in the Record Room of the Sessions Judge or the Metropolitan Sessions Judge or the Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall be inspected by any person without the permission of the Presiding Judge of the Court to whose file it appertains.

Rule 327. The Court may permit a party to a proceeding or his Advocate or Public Officers to inspect the record of a pending case fixed for the day. No notes (other than such notes as are permitted by Note 2, of rule 328) or extracts shall be taken from any portion of the record.

Note 1. When the inspection of any original document is allowed in Court, the Bench Assistant in attendance should, for that purpose, make over to the party or the Advocate concerned the document or the section of

the file containing the document required for inspection. After the inspection, he is required to replace it in its proper position in the file with his own hand. He must see that exhibited documents are not removed from the list with which they are annexed. He should also watch the inspection and be held responsible for the documents.

Note 2. Inspection of record of a pending case fixed for the day should ordinarily take place in the office in the presence of the Bench Assistant before the sitting hour. The inspection should be allowed upon the same condition as in Note 1.

Rule 328. The Presiding Judge may either in his presence or in the presence of his Bench Assistant allow inspection of records not sent to the Record Room to public officers and Advocates in the case subject to the general conditions laid down for inspection of records in the Record Room. He may, by general or special order in writing, prescribe upon what conditions and at what time and place such inspection may be allowed. No searching fee shall be levied.

Note 1. The permission of the Presiding Judge may be obtained on a written application in Form No. (M) 28 which will be supplied free of cost.

Note 2. An Advocate may read any document or record specified in his application the inspection of which has been allowed by the Court, but he shall take no notes other than such short memorandum (to be written in pencil on slips of paper to be provided by the Assistant before whom the inspection takes place) of the date and nature of the documents, names of parties, etc., as may be necessary to identify or describe the document or record in case a copy is required; but this permission does not extend to the taking of a copy of the proceeding or document, or any part thereof or to making extracts there from. The inspection of a record and the taking of

notes is a privilege the abuse of which should not be allowed. The directions in this rule must be very strictly observed.

Note 3. If in disregard of this rule, surreptitious copies of or extracts from papers in a record are allowed to be taken or furnished, the concerned employee shall be held responsible and severely dealt with.

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

CHAPTER XVIII
RECORD ROOM
Management of Record Room and Duties of the Record Keeper and his Staff

Rule 329. The Record Room is a room set apart for the storage of decided cases, and the Record Keeper is the Assistant in immediate charge of such records.

Rule 330 (1) Whenever possible it should be arranged, that each Record Room shall have only one combined entrance and exit, and that the Record-Keeper's table shall be so placed that no one can enter, or pass papers out of the Record Room unseen by him. The Record Room shall be constructed in the manner consistent with the specimen plan as shown in Appendix -1 as far as practicable.

Note. Re-punching peons should work near the Record-Keeper's table

(2) All outer windows, doors or openings in the walls of the Record Room, and all inner and outer windows, doors or openings giving access from the Record Room to any office or verandah which is not part of the Record Room shall be protected by iron railings and wire-netting, in such manner as to render it impossible that papers should be passed through them, and the Record-Keeper shall, by periodical inspection, satisfy himself that the railings and netting are in good order.

(3) The Record-Keeper must obtain and keep on his guard-file a copy of the instructions issued by the Government for the protection of buildings and records against fire, and he will be held responsible for ensuring that these instructions are carefully observed.

Note. No smoking of any kind is on any pretence to be permitted in any part of the Record Room or its annexes. The Record-Keeper will be responsible for seeing that this rule is strictly enforced, and bring at once to the notice of the Judge-in-Charge of the Record Room any infringement thereof.

Rule 331. The distribution of work among the Assistants should be on a scheme to be approved by the Judge-in-Charge and so far as possible it should be arranged on the basis of the various Courts in the district. Each Assistant dealing with the records of the Court or Courts of which he is in-charge and all matters connected with them shall be furnished with a Duty Card of his duties.

Rule 332. The following statements and reports should be maintained by every Record-keeper and submitted to the Judge-in-Charge of the Record Room:

(i) A monthly progress report in Form No. (M) 37 shall be submitted within first week of the succeeding month.

(ii) An annual statement in Form No. (M) 34 showing the total number of records received month wise from each Court during the preceding year, should be submitted within the first month of the succeeding year.

For the accuracy of these reports, the Record-Keeper should be held responsible.

Rule 333 (1) A plan and index of the Record Room shall be prepared by the Record-Keeper on the lines of the specimen plan and form

of Index reproduced as Appendix IV and as Form No. (M) 35, respectively and should be hung up in conspicuous place in his office. The plan should indicate the position and serial number of the several racks and almirahs in each room, and the entrance to and number of each room. It should also include an end-section of the racks, showing the serial number of the several shelves in each. The information required for the Index should be set out below the plan, in alphabetical order, Court by Court. This plan and Index must be kept up-to-date, and should be corrected after the periodical destruction of records. An Index-sheet, typed or printed in foolscap size in Form No. (M) 36 and pasted on a flat board, should be hung in a conspicuous place at the end of each rack.

(2) Wherever wooden racks exist, they should be replaced, as soon as funds be provided, by steel racks of the standard pattern, from time to time prescribed by the Government and approved by the High Court Division. In submitting plans for reconstitution a Record Room by substitution of steel for wooden racks, care should be taken: -

(i) that the racks shall be so placed that the light from the windows falls between the racks.

(ii) that there is sufficient spaces are left for gangways between the racks;

(iii) that the space between shelves is suitable for keeping the records and the Registers.

(3) The rooms, racks, and shelves in the Record Room should be numbered conspicuously. The rack number should be fixed at the end of each rack nearest the passage way, and at a height where it can be easily read; the letters A and B should be marked to denote the left and right hand

shelves of the rack respectively and these letters should follow, and be used with the shelf number. The reference in an index of the Record Room, or in the despatch-list, will thus be Room 1, Rack 1, Shelf 1-A- meaning the fist shelf on the left hand side or Rack 1.

(4) Every almirah in the Record Room should be clearly marked outside with a letter of figure, and the shelves therein should be numbered. A list showing its contents should be kept in each almirah.

(5) A Statement should be prepared and posted in every Record Room showing shortly, but accurately, what steps are necessary in order to trace out a record in the Record Room.

Rule 334. (1) The Record-Keeper shall maintain the following Registers: -

(i) Index Register, that is, Bound Dispatch Lists which must be paged and indexed so as to show at what page or pages the various classes of records will be found.

(ii) An index of Index Registers, in Form (M) 38. This should, If possible, be kept in the Record-Keeper's office.

(iii) The Register of Records issued from the Record Room [Form No. (R) 17].

(iv) The Register of Applications for the Return of Documents [Form No. (R) 31. This must be entered daily and preserved for 12 years.

(v) The Register of Requisitions for Documents [Form (R) 16].

(vi) An Attendance Register of the Record Room staff, to be preserved for one year.

(vii) Register of Applications for Payment [Form No. (R) 32].

(2) The Record-Keeper shall also maintain an inspection guard file in the manner prescribed.

Rule 335. The important duties of the Record-Keeper are stated below: -

(a) The Record-Keeper should be provided with a sufficient number of copies of the rules relating to records for the use of himself and his subordinates, and he will be held responsible for keeping the same up-to-date.

(b) He should keep a Register in which should be entered a description of all the office furniture in use in the Record Room.

(c) The Record-Keeper is responsible for the condition of the Record Room, the records, and the work done by the staff subordinate to him. He must be punctual and neat in his work, and see that the Record Room is maintained in an orderly and tidy condition.

(d) The Record Room must be swept out and cleaned regularly and the Record-Keeper will be responsible for the general cleanliness of the Record Room and records.

(e) All rooms and racks are to be numbered and a plan of the Record Room must be prepared and hung.

(f) The Index Register or Lists of Records sent to the Record Room must be completed by filling in columns 7, 8 and 9 thereof.

(g) All destruction should be entered in the Index Registers which should be indexed, bound, indexed on the back, and kept on end of shelves.

(h) The Record-Keeper must exercise proper personal supervision and control over the staff. He must make himself thoroughly acquainted with each employee's work

and check it frequently; this applies both to current work and the work in the Record Room. He should know the distribution of records in the Record Room, frequently inspect the Index Register (comparing the information in columns 7 and 8, with the actual position of records), and should see that the entries in column 9 of the Index Register are correctly made. He should also be careful that indexing of bundles is properly carried out. He should work with the idea in his mind that the eventual result of his inspections will be that he will have opened, inspected and correctly arranged every bundle of records in the Record Room.

(i) If at any time, any additional establishment is appointed to the Record Room, such staff shall work under the control and supervision of the Record-Keeper, who will be responsible for the proper division of work amongst them, and for drawing up and furnishing to each of them a statement of his duties.

(j) All members of lower subordinate services whose services may be required for removing and replacing records, or keeping the Record Room clean, shall be admitted thereto only under the supervision and control of the Record-Keeper, or such member of his staff as he may appoint for that purpose and on such days and within such hours as he may direct by general or special order.

(k) The Record-Keeper must furnish each Assistant with a written statement of his duties.

(l) The Record-Keeper must be careful to see that the Rules of High Court Division relating to exhibits are properly carried out and that no unexhibited documents are received in the Record Room.

(m) He will be held responsible for the regular issue of reminders to the lower Courts [and to the High Court Division, where necessary] to return records.

(n) He will be held responsible that the Registers of records and documents removed from the Record Room are properly maintained.

(o) He will be responsible that the current work is kept absolutely up-to-date. It is of utmost importance that this should be done, and at the very first sign of arrears, or of such a pressure of work as is likely to cause arrears, the matter must be reported at once by the Record-Keeper, through the Judge-in-Charge of the Record Room, to the Session Judge, Metropolitan Sessions Judge, Chief Metropolitan Magistrate, Chief Judicial Magistrate or District Magistrate, as the case may be.

(p) The Record-Keeper must submit regularly and in time the monthly progress reports. He must further take particular care that the figures inserted in this report are accurate.

(q) The Record-Keeper is responsible to see that all orders relating to the Record Rooms are carried out. He is also responsible for keeping all the Courts up to date in transmitting records to the Record Room.

(r) He is responsible to see that all records, and bundles of records, are kept in their proper places on the racks, and

must on no account permit them to be left lying along the gang-ways or on the floor of the Record Room. All racks and almirahs must be kept clean and their contents in order, with a list of the contents in each rack and almirah.

(s) The Record-Keeper's attention is called to the necessity of the careful and accurate preparation of returns, and until his staff has understood of their responsibilities in preparing returns, he should check all figures himself.

(t) It is imperative that the Record-Keeper should see that no unauthorized person enters the Record Room.

(u) The Record-Keeper should pay particular attention to the rules relating to the second triangular punching of court-fee stamps. He should periodically inspect the punches to see that they are in good order.

(v) He should also carefully observe the rules relating to destruction of records and should satisfy himself that the destruction of records or portions of records, as the case may be, is periodically and duly carried out.

(w) He must ensure that applications for copies are promptly complied with and the rules relating to payment orders and attachment of money are properly followed.

(x) The Record-Keeper should, on each working day, examine the contents of at least one bundle of records. He should open the bundle, see that the records are in order, that no documents are missing, that the re punching of stamps has been carried out, that the Rules and Orders of the High Court Division for the arrangement of records have been complied with, and that destruction has been carried out.

When he has satisfied himself that the work in that bundle has been properly done, he will retie the bundle and initial it in red ink, at the bottom left hand corner of its outer label, placing the date of his inspection immediately below his initials. At the same time, he will make a similar entry in the Index Register.

(y) If it is found that any papers are missing, that destruction is overdue, or that any suspicious circumstances are observable in connection with stamps, the fact should be reported to the Sessions Judge, the Metropolitan Sessions Judge, the Chief Metropolitan Magistrate, the Chief Judicial Magistrate or the District Magistrate, as the case may be, through the Judge-in-Charge of the Record Room.

(z) The Record-Keeper shall at once bring to the notice of the Judge-in-Charge any irregularities which he may discover in the records received in the Record Room.

CHAPTER XIX

TRANSMISSION OF RECORDS TO THE RECORD ROOM

1. Transmission of Records

Rule 336. The records of all criminal proceedings disposed of-

(a) by an Executive Magistrate shall be kept in the Record Room of the District Magistrate,

(b) by a Judicial Magistrate shall be kept in the Record Room of the Chief Judicial Magistrate,

(c) by a Metropolitan Magistrate shall be kept in the Record Room of the Chief Metropolitan Magistrate,

(d) by a Sessions Judge, an Additional Sessions Judge or Joint Sessions Judge shall be kept in the Record Room of the Sessions Judge, and

(e) by a Metropolitan Sessions Judge, a Metropolitan Additional Sessions Judge or a Metropolitan Joint Sessions Judge shall be kept in the Record Room of the Metropolitan Sessions Judge.

Rule 337. (1) The records of decided cases shall be forwarded to the Record Room by the Judges and Magistrates at head quarters in the course of the third month and by the Judges and Magistrates at outlying stations in the course of the sixth month next succeeding that in which they were decided or disposed of.

Note. Records, which end in final report or otherwise disposed, of shall also be covered by this rule.

(2) The Sessions Judges, Metropolitan Sessions Judges, Chief Metropolitan Magistrate, Chief Judicial Magistrates or District Magistrates, as the case may be, shall fix the dates on which in course of the month, the records from each Court, at headquarters and outlying stations, respectively, shall be dispatched to the concerned Record Room, the dates be so arranged as to secure and even distribution of work in the Record Room throughout the year.

Note. The orders pass by the Sessions Judges, the Metropolitan Sessions Judges, the Chief Metropolitan Magistrates, the Chief Judicial Magistrates or the District Magistrates, as the case may be, under this rule, fixing the dates for transmission of records, shall be copied and posted in the Record Room and in the offices of the Courts to which they relate.

(3) A notice exhibiting the dates for dispatch of records to the Record Room which have been fixed by the Sessions Judges, Metropolitan Sessions Judges, Chief Metropolitan Magistrates, Chief Judicial Magistrates or District Magistrates, as the case may be, under sub-rule (2) will be posted in a conspicuous part of the Court-room of the Courts concerned at least 10 days before the dates, a copy also being sent to the local Bar Association.

(4) Applications for copies of documents in such records will not ordinarily be entertained in the outlying Courts unless they are filed at least seven days before the date of dispatch fixed by the Sessions Judges, Metropolitan Sessions Judges, Chief Metropolitan Magistrates, Chief Judicial Magistrates or District Magistrates, as the case may be, under sub-rule (2). In special cases the Court may entertain applications for copies filed with urgent fees up to and including the second day previous to the date of dispatch.

Note. These rules do not apply to applications for copies filed at the district headquarters.

(5) A separate dispatch list in Form No. (R) 18 shall accompany the records sent by the Judicial Magistrates, Metropolitan Magistrates and Executive Magistrates respectively to the Record Rooms of the Chief Judicial Magistrate, Chief Metropolitan Magistrate and District Magistrate. Such list in Form No. (R) 19 shall accompany all records sent to the Record Room of the Sessions Judge or the Metropolitan Sessions Judge, as the case may be, under rule 336.

Note. The Assistant responsible for preparing the dispatch list and sending the records to the Record Room shall see that the list is correctly prepared and that no irregularity in the matter of periodical dispatch occurs.

(6) The dispatch list shall be of uniform size and shape and will be bound up in separate annual volumes fir each class of records of the same Court, so as to constitute a catalogue of records in the Record Room to be preserved for the same period, as the records to which they relate.

(7) The list required by sub-rule (5) shall be prepared in duplicate by means of carbon paper and shall contain an entry of every case disposed of during the period to which the list relates. The duplicate copy shall be forwarded to the concerned Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate, Chief Metropolitan Magistrate, and the District Magistrate under a separate cover and will be returned to the issuing Court duly signed by the Record-Keeper who shall acknowledge that the records have been received.

Note 1. Every list in Form Nos. (R) 18 and (R) 19 shall be given a serial number by the issuing Court, and the duplicate carbon copy shall be preserved for one year from the date of dispatch by the Court.

Note 2. When a paper is sent by a Court to the Record Room for being attached to any record, the Record Room Assistant concerned shall, after re punching the court-fee label (if any) attached to it, index it in the Table of Contents of the proper file.

Note 3. Care should be taken in sending record and preparing the appropriate list of any case or appeal if it becomes necessary owing to the conviction or sentence being modified or reversed by the higher Court.

Note 4. The records mentioned in rule 364 shall be entered in a separate list.

(8) If any record included in the dispatch list is kept back for any reason, the fact should be noted in the remarks column.

(9) The carrying cost of records and Registers sent to the Record Room shall be met by payment from the concerned Sessions Judge’s,

Metropolitan Sessions Judge's, Chief Judicial Magistrate's, Chief Metropolitan Magistrate's and District Magistrate's contingent head and the Presiding Judges and Magistrates will give all necessary orders as to the mode of transmission.

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

2. Receipts of Records

Rule 338. No record should be retained in a Record Room which does not find entry in one of the prescribed Record Room Registers. On the arrival of a batch of records in the Record Room, The Record-Keeper shall see that: -

(a) each record is stamped with a rubber stamp bearing the words ‘’ Record Room”, the place and the date;

(b) the record corresponds in number and description with entries in the Dispatch List;

(c) a second hole is punched with a triangular punch on each Court-fee label distinct from the first and a note is at that same time made upon the Title Page of each record of the date on which the stamps on documents contained in it have been so punched;

(d) the classification and arrangement of the records have been carried out and the contents of each file correspond with the Table of Contents;

(e) the papers bear the court-fee stamps shown in such Table and the stamps have been duly cancelled;

(f) the papers requiring court-fee stamps have been properly stamped; and

(g) every document in a record chargeable with stamp duty bears the full stamps prescribed by law.

Note 1. In the records of summary trails the note referred to in clause (c) shall be entered in the forms of summary trial kept under sections 263 of the Code.

Note 2. The second or triangular punching of court-fee stamps, prescribed in this rule, should be made on the date the records are received

in the Record Room, and should not await the inspection or examination of records.

Note 3. The Record-Keeper is personally responsible for the effective discharge of all duties under this rule. The appointment of an Assistant or a Peon to punch stamps on or to examine records received in the Record Room in no way absolves the Record-keeper of the duty of seeing that the stamps are duly punched and that there is no deficiency of stamps in any documents comprising a record.

Note 4. The Sessions Judges, The Metropolitan Sessions Judges, the Chief Judicial Magistrates, the Chief Metropolitan Magistrates or the District Magistrates, at the case may be, and the Judges-in-charge of the Record Room are reminded that in order to safeguard the Government revenue, the provisions of this rule must be strictly observed.

Rule 339. It in the course of carrying out the duties enumerated in rule 338, the Record-Keeper finds that any stamps shows signs of having been tampered with, or discovers any deficiency, irregularity in cancellation or other circumstances exciting suspicion, he must at once submit a report to the Judge-in-charge of the Record-Room.

Note. The reports should be submitted separately for each record and should not be delayed until the examination of a complete batch of records is concluded.

Rule 340. The Record-Keeper shall enter the date of the receipt of the records, the date on which they were actually due, the date on which they were examined and the total number of records in the space provided in the first sheet of the Despatch List. Any material delay in despatching records, or other irregularity or defect disclosed by his examination under

rule 338, should be brought to the notice of the Judge-in-charge of the Record Room not later than two days after completion of examination.

Note 1. Reports should be submitted jointly for each Court with reference to each batch of records received.

Note 2. Reports under this rule, if forwarded for explanation to the Courts concerned should be submitted to the Judge-in-charge or return, and when finally disposed of should be filed by the Record-Keeper in chronological order, and in a separate file for each Court.

Note 3. Records in which there are minor or remediable defects or irregularities should not be sent back to the outlying Courts for being remedied, but they should be rectified by the Record-Keeper, e.g., mistake in page numbering, omission of enter a paper in the Table of Contents, inclusion in one file of a paper belonging to another file etc. It any entries are necessary, they should made and initialled by the Record-Keeper and attested by the Judge-in-charge. If any signature of the Presiding Judge or the Magistrate of the Court is wanting in the order sheet or any other paper and the particular Judge or Magistrate has left the station, the omission should be remedied by affixing the dated signature of the Judge-in-Charge of the Record Room.

3. Arrangement of Records

Rule 341 (1). The records in a Record Room should be arranged Court by Court, different racks being allotted for the record of each Court whenever the number and disposition of records permit of this arrangement. When the records are placed in the racks, the component files should be grouped thereon according to the period for which they must be preserved.

(2) The records should be made up into bundles of convenient size, provided that no bundles should contain the records of more than one year.

In the disposition of bundles on the racks regard should also be had to the daily work arising in the Record Room, and the arrangement should be such as to facilitate access and minimize removal and replacement.

(3) Records forwarded to the Record Room will be opened out and made up into flat bundles of foolscap size. To the back and from of each bundle, a flat board or a piece of stout mill-board of foolscap size should be tied. Each bundle should not ordinarily exceed eighteen inches in depth but, in the case of iron racks of the old standard pattern, two bundles of a convenient size may be made up, so that the entire depth of the shelf may be fully utilized.

(4) On the board in front of each bundle there shall be placed a label in Form No. (M) 39, and the space showing the due date of destruction shall be filled in. The blank half of the Form will be used for noting the removal of records from, and their return to, the bundle. On removal of a record, its number will be noted on the blank half with the date of it removal; and on its return, the note will be crossed out. When the blank half of the Form has been filled up, for the purpose of further entries a clean sheet of foolscap paper should be pasted over it, care being taken to make a note on this paper of all records taken out of the bundle which have not been returned.

(5) A wooden board, or tin-shed index, 8’’x 13’’, setting out the name of the Court and the class of records kept on each shelf of the record rack, should be hung on the shelf by small screw hooks, which can be removed when the position of the records is for any reason altered.

(6) As the time for destruction of the records of particular year arrives, the bundle or bundles for that year will be removed from the rack or section of a rack which they occupy, and the rack or section will then become available for the records of the incoming year.

4. Inspection of Records

Rule 342 (1). The Record Room of Criminal Courts are not open to the public, but public officers of the district may, with the permission of the Judge-in-Charge, be allowed to enter the Record Room and to examine the record of any specified case free of cost, provided that such entry is made in pursuance of a public purpose. Such officer will examine the record in presence of the Record-Keeper.

(2) Every application for inspection shall be presented on a printed Form No. (M) 28 with the prescribed fee affixed to it to the Judge-in-Charge of the Record Room (Or the Assistant designated by him for the purpose) between 09:30 a. m. and 04:30 p.m. on Court days. The application shall clearly state why the inspection of record or paper is desired.

(3) Advocates duly authorized by any person in that behalf may, on payment of the prescribed fee [vide, rule 311(1)(a)(ii)], examine any specified record; but in doing so shall make no notes, other than short memoranda (to be written in pencil on slips o paper to be provided by the Record-Keeper) of the date and nature of the documents, names of parties, etc., as may be necessary to identify the document or record in case a copy is required. Except where otherwise expressly provided for in the rules regarding the Copying Department, he shall not be entitled to take a copy of the proceeding or document of record, or any part thereof or to take extracts there from.

Note 1. A notice in reflecting the sense of this rule should be displayed in the office in which the records are inspected. No Advocate shall be allowed enter the Record Room otherwise than in accordance with this rule.

Note 2. No person inspecting a record of paper shall make any mark on or in any respect mutilate any record or paper which is being inspected.

Rule 343. Any person named in an order for inspection may make such inspection only on days on which the Court is open during such period as may be fixed by the Judge-in-Charge of the Record Room between 09:30 a. m. and 04:30 p.m. The inspection may be made on any day within ten days from the date of the order.

Rule 344. For the inspection of the documents or records a separate table should be set apart, which should be kept quite clear and be so placed as to be in full view of the Record-Keeper. All inspections must be carried out on this table under the supervision of the Record-Keeper or of an Assistant deputed by him for the purpose but on the responsibility of the Record-Keeper.

Note. The Officer watching the inspection should be held responsible for the documents. He should see that the record is handled with due care.

5. Custody, Removal, Transmission of records and Documents Contained Therein

Rule 345. No record of a disposed of case shall be kept elsewhere than in the Record Room.

Note. Rule 337(1) prescribes the period after which records are to be sent to the Record Room.

Rule 346. No record deposited in the Record Room shall be removed or allowed to the removed by the Record-Keeper, except for the

use of the officers of the Court or with the sanction of the Judge-in-Charge of the Record Room.

Rule 347. (1) All applications and requisitions for documents or records other than those received from the Copying Department (see rule 348) shall, on receipt, be entered by the Record-Keeper) or by an Assistant under his personal direction) in the Register in Form No. (R) 14 or Form No. (R) 19, as the case may be, and then handed for compliance over to the Assistant-in-Charge of the required document or record. The latter shall immediately enter the application in the Register and bring the required record or document to the Record-Keeper, who shall then despatch it to the requiring Court, after noting compliance in column 8 of the Register. On return of the record he shall note in column 9 of the Register the date of such return.

(2) When a requisition is so defective that the Record Room staff cannot comply with it, it should be returned to the requiring Court or officer with the defects specifically noted and the reason for non-compliance endorsed on it and the Record-Keeper shall note the return in column 4 of the Register.

Note 1. A separate requisition shall be sent for every record or for any number of documents out of the same record called for by any court.

Note 2. A memorandum of removal with the date should also be made in the remarks column of the Despatch List against the entry relating to a record removed.

Note 3. Requisitions or applications for record should, at the time of registration under this rule, be stamped with a date stamp and numbered serially.

Note 4. All actions necessary to comply with a requisition for a record including the preparation of the letters to accompany the record and

advising the despatch in Form Nos. (M) 24 and (M) 25 and the packing and despatch of the record shall be taken by the Record-Keeper or an Assistant in his office deputed for the purpose.

Note 5. The memorandum of acknowledgement in Form No. (M) 24 from the receiving Court should, whenever possible, without causing undue delay, be enclosed with other communications sent by the outlying Courts to the Record Room at headquarters.

Note 6. It shall be particularly impressed upon the Record-Keeper and his staff that requisitions for records must not be returned on frivolous grounds. If the particulars given are sufficient to identify a record or if there are means for finding out the record, it must be traced out, even though the description as given by the applicant may in some respects be inaccurate. A case described by its class, number, name of Court and month and year of disposal can be located even though the date of disposal be not always accurate.

Note 7. Requisitions marked "Urgent" shall be immediately complied with.

Note 8. Records or documents called for shall, except in the case of requisitions marked "Urgent", be despatched as soon as possible but in any case within a week from the date of receipt of the requisition. Defective applications under sub-rule (2) shall be returned within three days of their receipt. Inspecting Officer will particularly observe whether the several provisions of this rule are strictly followed.

Note 9. In order that records may not remain out of the Record Room for an unnecessarily long period, the Courts should not ordinarily send requisitions for records before a case is fixed for hearing.

Rule 348. In complying with a requisition for copies of papers contained in a record, the Record-Keeper should not permit the entire record to be removed to the Copying Department, but only such documents as are specified in the application, unless the document specified in the application constitute the entire record. Every application for requisition, which necessitates the removed of papers from a record for the preparation of copies, or for any purpose other than return of papers to the parties, shall, on receipt in the Record Room, be entered by the Record-Keeper or an Assistant to be specially deputed for the purpose, in the Register in Form No. (R) 16.

Note 1. Entries relating to papers and documents removed in compliance with a requisitions for information or for any purpose other than transmission to the Copying Department should be made in this Register in red ink.

Note 2. Assistants of the Record Room establishment should bring to the notice of the Record-Keeper any delay on the part of the Copying Department in returning documents to the Record Room. The Record-Keeper should take steps as will secure their return and in case of unusual delay, submit a report to the Judge-in-Charge of the Record Room for such action as he thinks proper.

Rule 349. (1) Applications for the return of documents from records in the Record Room shall be made to the Judge-in-Charge during the hours to be fixed by him and shall contain the following particulars: -

(i) name of the Court to which the record containing the document appertains;

(ii) nature, number and year of case or appeal in which the document was filed;

(iii) date of disposal of the case and of appeal, if any;

(iv) name of the party or person on whose behalf the document was filed;

(v) name of the applicant and the capacity in which he makes the application; and

(vi) description of the documents.

(2) The Judge-in-Charge will pass an order "Return if no objection" and transmit the application to the Record-Keeper who shall enter them in the prescribed Register [Form No. (R) 31].

(3) If there is no objection to the application being allowed, the Record-Keeper shall himself return the document ordinarily on the next open day, but not later than the day following it during the time to be fixed by the Judge-in-Charge and obtain the dated signature of the person taking the document on the application as well as in the appropriate column of the Register in acknowledgement of receipt. The application shall then be attached to the file which contained the document. If the applicant does not appear to take back the document within three days from the date of filing the application, the application shall be rejected.

(4) If the application has not been filed by the proper person, or is defective in respect of material particulars and the information given is not sufficient to enable the document to be traced out by any other means, or there is any objection to the return of the document, the application with a report of the defects specifically noted on it shall be placed ordinarily on the next open day before the Judge-in-Charge who will pass appropriate orders. Such applications as cannot be complied with for any of the reasons above shall ordinarily be returned to the applicant by the Record-Keeper on the same day but not later than the next following day to be re-filed after removing the defects. If the application is re-filed, it shall be

proceeded with as before. The date of re-filing the application shall be entered in red ink in the relevant column of the Register under its original serial number.

Note 1. The Judge-in-Charge of the Record Room should satisfy himself that documents or defective applications are returned within the time specified in the rule. It is recommended that he should from time to time have the documents or defective applications returned in his presence. The Sessions Judge, the Metropolitan Sessions Judge, the Chief Judicial Magistrate, the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, should at the time of inspection note whether the provisions of this rule are being followed.

Note 2. The rejected applications shall be collected in monthly bundles in chronological order and preserved for three months.

Rule 350. Whenever a record or a document from a record is removed from the Record Room (otherwise than under rule 351), it shall be inserted in the place occupied by the record in its bundle or by the document in its record, as the case may, be a Removal Slip in Form No. (M) 29 on which shall be entered a full description of the record or document, and the purpose and the date of its removal. Each such slip shall be initialed by the Record-Keeper. Where, however, a document or record is removed in compliance with a requisition from any Court, such requisition shall be used as a Removal Slip. When a record is removed for any purpose, which would have the effect of transferring it to some other collection in the Record Room by reason of an alteration in the date of disposal for the purposes of destruction (e.g., in connection with appeal, revision, remand, petition of re-hearing, restoration etc., respecting the case), no such Removal Slip will be necessary.

Note 1. This slip shall be used also when records are removed from their bundle, on receipt of an application for inspection under rule 344 ante.

Note 2. If the record removed is to be sent to another Court, the word, "Removed" shall be stamped on its Title Page in bold type.

Rule 351. On return of a record or document removed under rules 350 and 352, an entry shall be made in the Register in Form No. (R) 17 and the document shall be returned to its proper place, the Removal Slip being kept for future use after cancellation of the entry.

Rule 352. The records of cases called for by the High Court Division, on appeal or revision from the judgment and orders passed therein, should be dispatched within fifteen days from the receipt of the requisition or time fixed by the Court. In the event of any delay occurring in their dispatch, a reply should be sent explaining the cause of the delay, and the probable date of their despatch.

Note 1. Cumbrous and bulky exhibits, e.g., Account Books, Khatas, and the like, should not be sent to the High Court Division unless specially called for, but a note showing the nature of such exhibits should be made in the letter advising despatch of the records. It will be sufficient to note- "Account Books (or, whatever the papers may be) are not sent by reason of their bulk."

Note 2. When exhibits referred to in "Note 1" above, are sent to the High Court Division in connection with any appeal, revision or reference, care should be taken to see that the instructions contained in Note 3 below of this rule have been complied with.

Note 3. Where an exhibit forms part of a voluminous document, such as an Account Book, Khata, etc., it should be clearly indicated by means of a slip of paper to the sheet or page on which it occurs, the exhibit marks being noted on the slip. When an entry in an Account Book is admitted in evidence, the portion so admitted shall be clearly indicated by surrounding the same in red ink.

6. Transmission of Records from one Court to Another

Rule 353. The following instructions should be observed in transmitting records from one Court to another: -

(1) If the two Courts are situated in the same station, the record should be despatched by hand properly packed with a peon book in which a serial number and date should be entered, and the signature of the recipient should be taken. The serial number and date appearing in the peon book should be reproduced in the remarks column of the Register of records removed. If the requisitioning Court is situated in a different station, records shall be sent by Registered parcel post, the postage being paid by means of Service Stamps.

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

(2) Records relating to different cases should be packed in separate parcels; provided that if not inconvenient, such records may be packed in the same parcel but separately tied up.

(3) In the parcel containing the record should be enclosed a forwarding letter, and the cover of the parcel should bear the distinguishing number and date of that letter.

(4) A letter of advice should be forwarded simultaneously with the dispatch of the parcel by post but separately and by ordinary letter post,

and in it the number and date of the forwarding letter referred to in the preceding clause should be quoted.

(5) An acknowledgement should invariably be required from the Court to which a parcel containing a record has been sent, and in the event of none being received within a reasonable time, enquiry should be made to ascertain the cause.

Note 1. All letters advising the dispatch of criminal records to the High Court Division and parcels containing such records, and also all returns of criminal processes issued by the High Court Division should be addressed to the Registrar of the High Court Division.

Note 2. The procedure in clause (1) of this rule is to be followed also where the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate, Chief Metropolitan Magistrate or District Magistrate, as the case may be, sends for a record from the Record Room.

Note 3. For Forms of letter and acknowledgment referred to in this rule, see Forms No. (M) 24 and (M) 25.

Note 4. Acknowledgment of the receipt of records sent out should be numbered and noted in the Register of records removed; they should then be filed in serial order on a new file, and should be made up ultimately into yearly bundles.

Note 5. When an acknowledgment of the receipt of a record is two days overdue, the Record-Keeper should issue a reminder to the Court concerned making a note of the issue in the Register of Records Removed.

Rule 354. Whenever possible, without offending any rule as to the period of return, records requisitioned by the Courts at the outlying stations and ready for return should be included in the batches of ordinary disposed of records.

Rule 355. When a record is received back in the Record Room, the following procedure should be observed: -

a) The record should be carefully examined by the Record-Keeper to see that it is complete and in order. If the Record-Keeper notices that any document is missing or that the record discloses any other defect, he should at once report the matter to the Judge-in-Charge.

b) An entry should be made in column 10 of the Register of Records Issued in [Form No. (R) 17] and initialed by the Assistant making it.

c) The entry in the Dispatch List in Form No. (R) 18 or Form No. (R) 18 or Form No. (R) 19, as the case may be.

d) Unless the record is dealt with under rules 357 and 358, the Removal Slip should be removed from the bundle, the entry upon it cancelled and the record restored to its place.

e) If the record is not restored to its original bundle for any reason, a note should be made in the Dispatch List that it is Kept with record No..... of the Court of .....

f) An acknowledgement in the prescribed Form is to be sent without delay.

Note. The above procedure, as far as applicable, is to be followed when the documents sent to the Copping Department are received back. The entry referred to in clause (b) is to be made in the Register in Form No. (R) 17.

Rule 356. When an original record, which has been called for in connection with an appeal, is received back in the Record Room, together with the judgment and other papers relating to the disposal of the appeal in the Appellate Court, the original and the appellate record should be kept

together. These records should be arranged according to the date of the appellate judgment. A note should be made in the remarks column of the bound list of records showing: -

i. Where the original record is to be found; and

ii. The date of the appellate judgment.

(2) The same procedure should be followed in the case of a record received back with an order for remand or re-hearing, a reference being made in the bound list, to the shelf on which the record is ultimately lodged.

(3) Original records received back from the Supreme Court, together with the judgment on appeal, should be kept together and indexed "Supreme Court-Appeals". These records should be arranged according to the date of the final judgment of the Supreme Court. A note should be made against the various entries relating to the records in the remarks column of the Dispatch List, showing where the respective records may be found, and giving the date of the final judgment of the Supreme Court.

Note. All records, on receipt, should be examined immediately and a report whether the records have been received back are complete or whether any papers are missing, in excess or defective, should invariably be made through memorandum of acknowledgement to the High Court Division in Form No. (M) 44.

Rule 357. It is the duty of the Record-Keeper to see that the records sent out are returned without undue delay. With this object, he shall cause the serial number of records not returned to be brought forward and entered in red ink in the Register of Records Removed before any entries are made relating to a new year. He should also cause to be prepared from this Register a Reminder List consisting of entries of all records which

have been out of the Record Room for more than three months. On the return of a record, the entry relating to it prescribed by this rule should be struck out.

Rule 358. From time to time reminders should be issued by the Record-Keeper in respect of such records, and if they do not result in return of a record, he should take the necessary orders from the Judge-in-Charge.

Note. A note of all reminders issued should be made in the reminder list and in the remarks column of the Register of Records Issued [Form No. (R) 17].

Rule 359. Lists of records which have been sent to the High Court Division should be prepared by the Courts concerned at intervals of not less than six months. These shall be placed before the Judge-in-Charge with a view to securing the return of the records if the cases have been disposed of finally.

Rule 360. The above rules, so far as they are applicable, shall be followed in sending and in complying with requisitions for records in pending cases.

CHAPTER XX
THE DESTRUCTION OF RECORDS

Rule 361. Subject to the other provisions under this Chapter, the following Tables show the period prescribed for the retention of various parts of the records of any case or proceedings:

Table - A

Cases disposed of by the courts of Session or Special Courts or Tribunals under any laws	Period for which records are to be retained		Time from which the period begins to run.
	File A	File B	
1. Cases in the following sentences :-			
a) Death Sentence	2 years	2 years	From the date of termination of the sentence.
b) Imprisonment for life	2 years	2 years	From the date of termination of the sentence.
c) In other cases of imprisonment for any period	3 years	3 years	From the date of return of the warrant of commitment after execution.
d) Sentences of other kinds.	2 years	2 years	From the date of realization of fine or execution of sentence otherwise.
2. Cases resulting in the acquittal.	5 years	5 years	From the following day of the judgment of acquittal.
3. Cases in which accused has been discharged of u/s 265C or 241A of the Code.	5 years	5 years	From the following day of the order of discharge.
4. Dismissal of complaint u/s 203 of the Code, when authorized by any law.	3 years	3 years	From the following day of the order of dismissal.
5. When the proceeding of the case has been stopped, when authorized by any law.	5 years	5 years	From the following day of the order of stopping the proceeding.

Table - B

Any case disposed of by Magistrates	Period for which records are to be retained		Time from which the period begins to run.
	File A	File B	
1. Cases resulting in the sentences of imprisonment for any period.	3 years	3 years	From the date of return of the warrant of commitment after execution.
2. Cases resulting in the sentences of other kinds.	2 years	2 years	From the date of realization of fine or execution of sentence otherwise.
3. Cases resulting in acquittal.	5 years	5 years	From the following day of the judgment of acquittal
4. Dismissal of complaint u/s 203 of the Code.	3 years	3 years	From the following day of the order of dismissal.
5. Cases in which accused has been discharged of u/s 265C or 241A of the Code.	5 years	5 years	From the following day of the order of discharge.
6. When the proceeding of the case has been stopped, when authorized by any law.	5 years	5 years	From the following day of the order of stopping the proceeding.

Note. The above periods shall be calculated as regards cases from the date of disposal of cases or expiry of the bonds executed.

Rule 362. (1) Following records shall be retained for five years from the dates of disposal of cases or expiry of the bonds executed.

(a) Records of cases of Security for keeping the peace and for good behaviour under Chapter VIII of the Code.

(b) Records regarding public nuisance and possession under Chapters IX to XII of the Code.

(c) Records of appeals or revisions.

(2) The following records shall be retained for two years:

(a) Records of cases in which Magistrate has declined to issue processes.

(b) Records involved in summary trial cases.

(c) Records regarding transfer of cases.

(d) Records regarding Miscellaneous inquiries.

(e) Records of cases ended in final reports.

(f) Files A and B of cases in which the accused persons have been acquitted on the ground of insanity, but ordered to be detained in safe custody under section 471 of the Code.

(g) Cases which have ended in final report without the file being transferred to the Judicial Magistrate for trail.

(h) Records regarding Miscellaneous cases for trial.

Rule 363. Notwithstanding anything contained in rule 361, the following records and papers of records shall be preserved for the period noted against each|:-

(a) Record of any case in which any of the accused or parties proceeded against has not been apprehended.		Five years from the date of arrest or surrender, as the case may be.

(b) In cases in which the accused has been convicted for an offence, a repetition of which renders the offended liable to enhanced punishment: (i) Charge (ii) Findings, sentence and Judgment (iii) Copy of the Judgment or order		Twenty years.

of the Appellate or Revisional Court. (iv) Form of summary trial kept under section 263 of the Code. (v) Warrant returned after execution by the Jail Authorities.		

Note. The records or papers referred to in this rule may, however, be destroyed when all the persons on whose account they have been preserved are known to be dead.

Rule 364. The following records and papers of records, shall not be liable to destruction: -

(1) Record of any case in which the sentence has not expired.

(2) Record of any case in which any of the accused or parties proceeded against has not been apprehended.

(3) Record of any case, in which any order of attachment has been made under section 146 of the Code, so long as such order remains in force.

Note. The records referred to in this rule may, however, be destroyed when all the persons on whose account they have been preserved are known to be dead.

Rule 365. For the purpose of destructions, the Supplementary File shall be regarded as part of File A.

Rule 366. Unreturned exhibited documents received in the Record Room with the records transmitted therein shall be liable to destruction at

the expiration of one year from the date of the final order of the last Appellate Court or the Revisional Court, as the case may be.

Rule 367 Before arrangement of the records in the Record Room, the Record-Keeper shall cause a list to be prepared and entered in a book of all unreturned exhibits to e kept in the following form: -

Name of Court	Description and No. and years of case	Nature of documents	Name of persons filing	Name of Advocates if any	Dates of final order	Due dates of destruction	Remarks

Note. Cumbrous and bulky exhibits, e.g. account books, khatas, and the like, which cannot be conveniently kept with the record should be preserved separately, e.g., in almirahs, boxes, and bundles with a fly-leaf marked with the number and name of the case and the name of the party or Advocate filing the documents.

Rule 368. (1) To enable the parties who have filed documents in Court to withdraw the same before destruction, a final notice shall be published in Form No. (P) 77 on the notice board of the Sessions Judge, Metropolitan Sessions Judge, Chief Metropolitan Magistrate, Chief Judicial Magistrate or District Magistrate, as the case may be, in January and July of each year stating that all documents filed in the cases (to be therein enumerated) with unless previously reclaimed be destroyed within one month from the date of the notice. Such notice shall contain the name of the Court, the number of the case in which the document was filed, and the names of the parties and Advocates. If the document was originally filed in any outlying Court, the notice should be sent for publication in that Court's Notice Board as well as in the Notice Board of the Sessions Judge,

Metropolitan Sessions Judge, Chief Metropolitan Magistrate, Chief Judicial Magistrate or District Magistrate, as the case may be.

Note. This notice should, if possible also be served upon the Advocates and parties concerned at their last known address.

Note 2. Judge-in-Charge may at his discretion and by special order preserve any paper in the record of any particular case beyond the period of its preservation.

(2) On the expiration of one month from the publication of the aforesaid notice, all unreturned documents will be destroyed without fail and the date of destruction should be noted in the remarks column of the Index Sheet.

(3) Destruction of records should be carried out annually, and the Record-Keeper shall in the first month of each cause A and B Files, which are due for destruction, to be removed from their shelves for the purpose and submit report of the fact to the Judge-in-Charge who, on being satisfied that the work has been properly done, should give order as to the date of destruction. As each record is destroyed, the necessary entries should be made in column 0 of the Despatch List. Entries as regards the classes of the records destroyed during the year should also be made simultaneously on the Index Board.

Note. Entries in column 1. 2 and 3 of the Index sheet displayed on the board [Form No. (M) 36] shall be made at the time the records are shelved in the racks. The entry in column 4 should be made as the records are destroyed.

(4) Useless record may be sold untorn, but confidential records or private documents, such as exhibits, not taken back or record, should be destroyed by burning in presence of the Record-Keeper.

CHAPTER XXI
RECONSTRUCTION OF RECORDS AND REGISTRERS LOST, DESTROYED OR NAMAGED BY FIRE, ETC.

Rule 369. When records, Registers, etc., of any Criminal Court are Lost destroyed, damaged by fire of otherwise, the fact should at once be reported to the High Court Division and the Presiding Judge of the Court for the Judge-in-Charge concerned should take personal charge immediately of their remnants of records and proceed with the work of reconstruction of records according to the provisions of this Chapter.

Rule 370. It any Register has been preserved, the Presiding Officer of the Court or the Judge-in-charge should take its personal charge and should look carefully through it in order to satisfy himself that on alterations or erasures have been made in the columns showing manner of disposal. If he detects any suck alterations or erasures, he should make careful enquiry about them. Every entry referring to the manner of disposal of cases should be attested by the Presiding Officer or the Judge-in-Charge concerned and every bona fide alteration should be similarly attested. The Presiding Officer, if subordinate to the Sessions Judge, Metropolitan Sessions Judge, Chief Metropolitan Magistrate, Chief Judicial Magistrate or District Magistrate, as the case may be, should also open a small supplementary Register showing fully the manner in which each case has been decided; and this Register should be sent to the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate, Chief Metropolitan Magistrate, or District Magistrate, as the case may be,

for safe custody. The Judge-in-Charge should also take similar steps in pinioning Supplementary Register.

Rule 371. (1) If the record of any case, whether pending or disposed of, is lost or destroyed or damaged, the Presiding Officer or the Judge-in-charge shall take such steps as may be necessary to reconstruct the papers lost or destroyed or damaged.

(2) If any list of documents or any exhibit has been lost or destroyed or damaged, the same shall be reconstructed by demanding duplicate copies of the same from the persons who originally filed them in Court.

Rule 372. The following instructions should be followed as may be necessary as a guidance only in reconstructing records or documents: -

(a) The Presiding Judge or the Judge-in-Charge of the Record-Room, as the case may be, for the purpose of reconstruction of any record or document, should-

(i) at the first instance start a Miscellaneous Case and issue s notice to the complainant, informant, accused, or their respective Advocates and concerned Police Officer as may be necessary to put any kind of the copy of complaint or First Information Report, as the case may admit of, charge-sheet, statements made to the police during investigation and confessional statement made before the Magistrate, statement made to the Magistrate during inquiry, contents of the charge framed by the Court, deposition of witnesses, statement as to be examination of the accused under section 342 of the Code, judgment, order, etc,; and

(ii) direct the concerned Police Officer to submit case diary

with photocopy thereof.

(b) The Presiding Judge of the Judge-in-Charge, as the case may be may examine the parties to the proceeding or their Advocates or any other person relating to all the matters essential for reconstruction of the record or the document and for this purpose he may also take any statement with verification in writing from them.

(c) The Presiding Judge of the Judge-in-Charge of the Record Room, as the case may be, should first take all possible efforts to find out the relevant Registers and then inspect the same.

Note 1. The High Court Division desires to impress upon all the concerned parties or Advocates that they would provide all assistances and extend co-operation to the Presiding Officer of the Judge-in-Charge, as the case may be, for the purpose of reconstructing the records.

Note 2. Keeping the purpose in view, Advocates are in the same position as ordinary witnesses in regard to whose examination the Presiding Officer or the Judge-in-Charge, as the case may be, must exercise his Judicial discretion.

Note3. If any Register relating to the case is available, the concerned Advocate shall be allowed to consult the same and to take notes from it free to cost in presence of the Bench Assistant of Record-Keeper, as the case may be.

Note 4. Parties to the proceeding or their Advocates submitting the copies of documents cannot evade their responsibility of producing genuine documents to the best of their knowledge.

(d) The Presiding Officer or the Judge-in-Charge, as the case may be, should carefully scrutinize the copes, statements recorded upon examination of persons and statements taken under clause

(b) of this rule in order to ascertain any satisfy himself with regard to the correctness and bonafides of the copies, statements and entries in the Registers.

(e) The Presiding Judge of the Judge-in-Charge, as the case may be, upon scrutiny being satisfied himself, may admit the copies either in whole or in part, as he thinks fit and proper.

(f) The Presiding Officer or the Judge-in-Charge, as the case may be, upon satisfying himself about the genuineness of the copies should be arrive at a decision of reconstructing the record and pass as order to that effect in the record of the concerned Miscellaneous Case. Thereafter he should start reconstructing the record and do the needful for completion of the same. He shall sign a certificate on each page of the document reconstructed that the same has been reconstructed under his supervision.

Rule 373. (1) Affidavits which are found to have been destroyed along with the records may be reconstructed by obtaining copies thereof from the party originally swearing the same with notice to the other party, failing which, the party concerned shall be asked to swear fresh affidavits.

(2) In case any affidavit is required to be re-sworn by any party under sub-rule (1), this may be done without payment of any fresh court fee, if so ordered by the Presiding Officer.

Rule 374. The foregoing rules shall also, as far as practicable, be followed, in reconstructing the records of all other criminal proceedings and related Registers.

CHAPTER XXII

REGISTERS

1. General

Rule 375. The following Registers shall be maintained in the Criminal Courts: -

(a) Accounting Registers,

(b) Primary Registers

(c) Subsidiary Registers

(d) Statistical Registers

Note 1. Accounting Registers have been dealt with separately in the Chapter of Accounts.

Note 2. Primary Registers are those which deal directly with cases filed in Court and show the progress and disposal of such cases.

Note 3. Subsidiary Registers are maintained for administrative purpose.

Note 4. Statistical Registers are maintained for the purpose of preparing the returns.

Note 5. All Registers shall be kept either in Bangla or in English when supplied.

Rule 376. The Forms of Registers being in most cases self-explanatory, additional instructions in this Chapter are for general guidance.

Note. When the Registers are in bound volumes, the volumes should not be closed until all the forms therein have been exhausted.

Rule 377. (1) Any other Subsidiary or Statistical Registers should not be maintained in any Court unless there are special circumstances for

introducing them. The list referred to specifies all the Registers which, it is believed, if properly maintained, will furnish every information absolutely necessary for judicial, administrative or statistical purpose.

The introduction of unauthorized Registers or books of any kind should be strongly discouraged.

Rule 378. There periods for which different Registers have to be preserved are shown in the list given in Volume II. The periods stated therein are to be reckoned from the date of the last entry in the Register and all the expiration of those periods the Register shall be destroyed.

Rule 379. No one except the Assistant-in-Charge entrusted with the task of maintaining a particular Register shall, unless otherwise provided, make any entry therein without the orders of the Presiding Officer of the Judge-in-Charge concerned.

Rule 380. (1) Registers which are to be preserved for more than three years shall, after one year from the date of the last entry, be sent to the Record Room with a list giving a description of the Registers sent.

(2) On receipt of the Registers in the Record Room, they shall be entered in the Index of Registers [Form No. (R) 24] which shall be maintained in the Record Room.

(3) Registers which are to be preserved for three years or less shall not be transmitted to the Record Room.

Note. The Registers of all Courts Subordinate to the Sessions Judge or the Metropolitan Sessions Judge or the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, should be sent to the respective Record Rooms in January of the succeeding year.

2. Primary Registers

Rule 381. (1) Register of Sessions cases [Form NO. (r) 1(i)]:-

This Register shall be maintained in the Court of sessions Judge of any Session Division.

(2) Registers of cases tried by the Tribunals established under different special laws and Special Judge under Criminal Law (Amendment) Act, 1958 (Form No. (R) 1 (ii):- These Registers shall be maintained in the office of the concerned Tribunal or Special Judge.

(3) (i) Registers of Complaints of offences [Form No. (R) 2(i)].

(ii) Register of Non-cognizable cases instituted on prosecution report [Form No. (R) 2(ii)]; and

(iii) Register of Miscellaneous cases [Form No. 2(iii)].

The Registers mentioned in this sub-rule shall be maintained in the Courts of the Magistrates.

Note 1. The number of persons discharged or against whom orders are made shall, in cases other than those under sections 107, 108, 109, 110, 144 and 145 of the Code, be noted in the column for remarks.

Note 2. Applications which have been filed and no action in respect of which has been taken shall not be entered in this Register.

Note 3. The date of institution of Miscellaneous cases in the date on which any proclamation is published, processes are issued or orders are made or on which the accused in produced in Court or is called upon to show cause any an order should not be made against him.

(4) General Register of Cognizable cases [Form No. (R) 3}:-

Every order of transfer shall be entered in column 12 and after the disposal of the case, the Bench Assistant of the trying Court shall intimate to the Bench Assistant of the transferring Court the final order passed in the case which shall then be entered in column 13.

Note. The result of appeal or revision shall be entered in the remarks column o the Register.

(5) Trial Register [Register of cases instituted or received by transfer for inquiry or trial in the Court of Magistrate [Form No. (R) 4): - This Register need not be maintained by Courts in which Registers in Form Nos. (R)2(i), (R)2(ii), (R)2(iii) and (R) 3 are maintained.

(6) Register of Appeal, Revision and Miscellaneous cases [Form Nos (R) 5(i), (R) 5(ii) and (R) 2(iii) respectively]: -

(a) Separate Registers should be used for appeals and Revisions, for appeals Form No. (R) 5(i), for revision Form No. (R) 5(ii) and for Miscellaneous cases [Form No. (R) 2(iii)].

(b) A separate Register should be maintained in Form No. (R) 5(ii) mutatis mutandis by the Courts of Session for Miscellaneous Cases under sections 123, 476, 480, 485, 485A, 498, 520, 526B, 528, etc., of the Code.

(7) Register of petty Cases in Form No. (R) 6: - In the Courts of Chief Metropolitan Magistrate and other Metropolitan Magistrates, all cases under the Motor Vehicles Ordinance, 1983, Laws establishing Metropolitan Police in Metropolitan areas, বাংলাদেশ শ্রম আইন, ২০০৬, etc., are to be maintained in this Register.

(8) Register of Warrants of Imprisonment in Form No. (R) 7: -

(i) Names of prisoners shall be entered in the Register according to the date of sentence in chronological order.

(ii) Warrants when returned after execution shall be filed with the record of the case to which they belong so as to form part of the record.

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

3. Subsidiary Registers

Rule 382. (1) Register of Processes Issued [Form No.) R) 11]:- This Register shall be kept in every Criminal Court and the particulars of each process issued by the Court should be entered in it.

(2) Register of Processes Received for Issue [Form No. (R) 12]: -

This Register shall be kept in the department responsible for issuing the process for service of processes.

(3) Register of Applications for Copies [Form No. (R) (15)]: -This Register shall be maintained by the Head Comparing Assistant or other Assistant but not by a Copyist, Typist or Computer Operator.

(4) A Register should be maintained for the attendance of employees of the Court in the Form prescribed by the Government.

4. Statistical Registers

Rule 383. Statistical Registers [Form No. (R) 29 (i) and (R) 29 (ii)]: -

These Registers should be written up from day to day, so that the entries in different columns should consist of consecutive series of numbers, the last of which should, at the end of the month, quarter of year, at one supply the information required for inclusion in the various periodical statements to be submitted.

Note. Presiding Officers should see from time to time that these Registers are regularly and carefully maintained. These Registers should be inspected at least once of quarter and the inspecting Presiding Officer should sign his name with date. Unauthorized Registers or books which seek to supplement them will then be unnecessary and their use should be strongly discouraged.

Rule 384. The Registers as set out above shall be used in all Criminal Court.

Note. The present Chapter is for general guidance about the use of Registers and deals with a few Registers only. The complete list of Registers used in Criminal Courts has been provided in Volume II.

CHAPTER XXIII

PERIODICAL RETURNS AND STATEMENTS

1. General

Rule 385. (1) The Forms prescribed for submissions of statements and returns by the Criminal Courts are entered in the list to be found in Volume II.

(2) The Forms themselves contain instruction for observance. The following general instructions are intended to secure the correct and uniform preparation of these statements. The High Court Division desires to impress upon all Presiding Judges and other Officers concerned that unless the statements are prepared accurately and in exact compliance with the instructions issued, they are not merely valueless but mischievous.

Note 1. Printed Forms of the periodical statements will be supplied by the Government Printing Press to all subordinate Courts from time to time on indent. The Forms so supplied should along be used for the periodical statements. The practice of extending the printing Forms by pasting sheets of paper on them should be avoided. As many printed Forms as may be necessary to contain the information required should be used. For reports and for explanations where they have to be written separately, foolscap paper should be used.

Note 2. Where a statement is blank, it should not be submitted in a Form, a note to that effect being sufficient.

Note 3. Care must be taken that the number of cases shown as pending at the close of one period is entered as pending at the beginning of

the next. When, however, the entries differ by reason of an error in a previous return, a note should be added explaining the discrepancy and pointing out the entries where corrections should be made.

Rule 386. (1) Witnesses examined by Judicial Officers in Court in inquiries under sections 200, 202, 476 and 476B of the Code shall not be included in the periodical returns.

(2) Cases finally remanded for re-trial under section 423 of the Code shall be treated as new cases for the purpose of returns.

2. Cases Received of Disposed of ‘’By Transfer”

Rule 387. No case shall be entered in the returns as received or disposed of by transfer unless the transfer was from one district to another revenue one kind of Court to another, as for example, form a civil or revenue Court to a Court of Magistrate under section 482 of the Code. A note shall always be made in the remarks column of the number, if any, as cases and persons transferred to, or received from, places outside the jurisdiction of the High Court Division as this information is required for the compilation of the returns.

3. Cases ‘’Referred” & ‘’Received on Reference”

Rule 388. The columns headed ‘Referred’ and ‘Received’ on Reference’ are meant to exhibit cases in which an inquiry or trial has been held, and the proceedings of the Court are submitted for confirmation by the order of a higher Court, for example, cases submitted by the Magistrate

under sections 123, 347 and 349 of the Code, and by the Sessions Judge under section 374 of the Code.

Note. Mere transfer of cases of trial under section 192 of the Code are not to be entered in this column, not in the column exhibiting transfers; they are to be entered against the Court which decided them, and not against the Court which may have merely received the complaint.

Rule 389. Cases of the kind alluded to above, in which the proceedings of one Court are submitted for the confirmation or orders of another, will, like cases sent to the Court of Session, find entry in the returns of the referring Courts, not as convicted, but as "referred". In the returns of the Courts received the references, they will be shown as 'convicted', 'acquitted' etc., according to the result of the reference in each case, or as 'pending' if orders have not been passed on it.

4. Duration of Cases

Rule 390. (1) In calculating the duration of cases before the Magistrate, the time must be counted from the date of the apprehension of the accused (and when there are more than one accused, from the date of the apprehension of the first accused) of his appearance in Court, whichever is earlier, and the period from such apprehension or appearance till the transfer, if any, of the case to the trying Court must be shown in the total duration.

(2) In all cases which are over six months old from the apprehension or appearance of the first accused, the date of submission of the charge sheet should appear plainly in the remarks column of the statement.

(3) In a case, in which all the accused are absconding, the duration should be counted from the date of publication of notice in the newspaper for appearance of the accused.

Rule 391. A Case is regarded as coming on the file of the receiving Court from the date of sending, reference or order of transfer.

5. Submission of Periodical Returns and Dates

Rule 392. (1) Monthly and quarterly statements should be despatched by the Judicial Magistrates to the Chief Judicial Magistrate, by the Metropolitan Magistrates to the Chief Metropolitan Magistrate and by the Executive Magistrate to the District Magistrate on or before the 5th day of the month next succeeding the period to which they relate, and similarly annual statements should be despatched on or before the 20th day of the new year.

(2) Consolidated quarterly statements of the Judicial Magistrate and Metropolitan Magistrate should be submitted respectively by the Chief Judicial Magistrate and Chief Metropolitan Magistrate to the concerned Sessions Judge or Metropolitan Sessions Judge on or before 10th day of the month next succeeding the period to which they relate, for onward transmission to the High Court Division.

(3) Consolidated quarterly statements of the Executive Magistrates should be submitted by the District Magistrate of the High Court Division on or before 10th day of the month next succeeding the period to which they relate.

Note. The Chief Metropolitan Magistrate and the Chief Judicial Magistrate or the District Magistrate, as the case may be, may record remarks, if any, in this behalf.

(4) The Chief Metropolitan Magistrate and the Chief Judicial Magistrate should sent monthly and quarterly statements of their own Courts to the concerned Sessions Judge or Metropolitan Sessions Judge on

or before 10th day of the month next succeeding the period to which they relate.

Rule 393. The Sessions Judge and the Metropolitan Sessions Judge should send the statements submitted under sub-rule (2) and (4) of rule 392 to the High Court Division on or before the 20th day of the month next succeeding the period to which they relate.

Note. The sessions Judge or the Metropolitan Sessions Judge may record remarks, if any, in this behalf.

Rule 394. (1) Monthly and quarterly statements should be despatched by the Additional Sessions judge and joint Sessions Judge to the concerned Sessions Judge or Metropolitan Sessions Judge on or before the 10th day of the month next succeeding the period to which they relate, and similarly the annual statements should be dispatched on or before 20th day lf the new year.

(2) Consolidated quarterly statements lf the Additional Sessions Judge and joint Sessions Judge should be sent by the Sessions Judge or Metropolitan Sessions Judge to the High Court Division on or before the 20th day lf the month next succeeding the period to which they relate.

(3) The Sessions Judge, Metropolitan Sessions Judge, Special Judge and Tribunal judge in the rank of Sessions Judge should send quarterly statements of their own Courts to the High Court Division on or before the 20th day of the month next succeeding the period to which they relate.

Rule 395. (1) Annual Statements along with the Annual Report on the administration of criminal justice should be submitted by the Chief Judicial Magistrate and the Chief Metropolitan Magistrate to the concerned

Sessions Judge or Metropolitan Sessions Judge on or before the 20th day of January of each year.

(2) The concerned Sessions Judge or the Metropolitan Sessions Judge should send the annual statements and report received under sub-rule (1) to the High Court Division on or before the 15th day of February of each year.

(3) The Sessions Judge and the Metropolitan Sessions Judge should submit the Annual Report on the administration of criminal justice of the Additional Sessions Judge and the joint Sessions Judge including their own Courts to the High Court Division on or before the 15th day of February of each year. The Special Judge or Tribunal Judge in the rank of Session Judge should submit the Annual Report to the High Court Division on or before the 15th day of February of each year.

6. MISCELLANEOUS

Rule 396. (1) Punctuality in the submission of all Statements and Annual Reports must be insisted upon, and the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate, Chief Metropolitan Magistrate and District Magistrate should be careful to take the necessary steps to ensure the accurate compilation and prompt despatch of the same. The High Court Division will be compelled to take a serious view of the conduct of any officer who neglects to accord due attention thereto.

(2) Magistrates and Judges are required to see that the statements are prepared neatly as well as correctly in respect of the entries made and they are not disfigured carelessly or by bad writing. When such defect occurs, the statements will be liable to be liable to be returned.

Rule 397. Where the figures given in any return differ from those given in any returns previously submitted, explanations should always be given in order to avoid the necessity for a reference in the matter. Much correspondence will also be rendered unnecessary if, before submission, figures entered in the Annual Statements are compared with those in the High Court Division's printed report for the previous year.

Note 1. Officers having work in more departments than one should always note in their returns how their time was apportioned between the various departments. This is necessary to enable the High Court Division to judge whether the work done is sufficient.

Note 2. Where, in the general statement compiled for any district, the total of the column "Received by transfer" differs from that of the column "Disposed of by transfer", the reason should be explained.

Rule 398. The remarks column should contain the particulars of any cases which do not appear to be clearly provided for in other columns, and should also contain brief explanations of any noticeable results appearing on the face of the returns, specially of such as, if unexplained, might lead to erroneous conclusions.

Rule 399. No statement or return prescribed by the High Court Division shall be modified, discontinued or replaced by any other, nor shall return or statement of any kind (monthly, quarterly etc.) be introduced without an express order of the High Court Division previously obtained. The High Court Division considers that the revised statements and returns prescribed are, if properly prepared and scrutinized, sufficient for administrative control and other purposes. Whenever any difficulty is experienced in respect of the prescribed Forms, or any modification is considered necessary, the reasons therefore should be submitted by the

Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate, Chief Metropolitan Magistrate or District Magistrate with a draft of proposed Form for the consideration of the High Court Division.

Rule 400. Except where otherwise specially provided, returns are meant to show separately the work of each Court, and not the work of each officer who may have presided during the year in the same Court. Officer's names need not, therefore, be given.

Rule 401. (1) The Sessions Judges, Metropolitan Sessions Judges, Chief Judicial Magistrates, Chief Metropolitan Magistrates or District Magistrates should carefully scrutinize the periodical statements and explanations submitted by the subordinate Courts, and satisfy themselves that the business of those Courts is transacted with due despatch.

(2) The Sessions Judges, Metropolitan Sessions Judges, Chief Judicial Magistrates, Chief Metropolitan Magistrates or District Magistrates will insert at the foot of their quarterly statements, a certificate either that the statements, etc., have been found satisfactory or that needful steps have been taken in respect of those which have been found unsatisfactory, and cases which appear to call for notice or instruction of the High Court Division, should be separately reported.

(3) In cases calling for special notice of the High Court Division, the Sessions Judges, Metropolitan Sessions Judges, Chief Judicial Magistrates, Chief Metropolitan Magistrates or District Magistrates, as the case may be, are at liberty to ask for a full explanation from the concerned subordinate Court and refer the same to the High Court Division.

Rule 402. The Sessions Judges, Metropolitan Sessions Judges, Chief Judicial Magistrates, Chief Metropolitan Magistrates or District Magistrates should personally examine, at least half-yearly, a certain proportion of the records of cases disposed of by each subordinate officer

in the concerned district or metropolitan area and sent to the Record Room from all Courts, in order to satisfy themselves that the works of those Courts area being done with dispatch and in accordance with law. The results of this examination should be noted in the Annual Administrative Report and the names of the officers whose works are found to be defective or irregular or unsatisfactory should be mentioned there.

Note 1. The examination should be directed with a view to ascertaining the following points amongst others: -

a) Whether orders are passed promptly and written properly;

b) Whether judicial business is conducted with despatch;

c) Whether adjournments are granted too leniently and dates are fixed mechanically;

d) Whether orders passed are in accordance with law, and orders required to be written in the hand of Judge are so written;

e) Whether evidence is properly recorded;

f) Whether judgments contain sufficient reasons for decisions with proper appreciation of facts and laws involved, and are promptly written, etc.

Note 2. In all quarterly statements, the number of days during which any Judge or Magistrate has been absent from Court owing to temporary indisposition or other cause, should be noted. In all statements of the Courts of Sessions Judge, Additional Sessions Judge and Joint Sessions Judge, the working days employed in criminal cases by each of them should be noted.

Rule 403. (1) In the second and fourth quarterly returns submitted by the subordinate Courts to the Chief Judicial Magistrate and the Chief Metropolitan Magistrate, a brief explanatory note should be given regarding the cases which have been pending for more than one year.

(2) The explanatory note, referred to in sub-rule (1), shall be given in the following proforma :-

SL. No.	No. of cases	Section of the Penal Code or any other law	Date of institution	Date of surrender of apprehension of the accused or the first accused	First date fixed for evidence	No. of adjournments	Brief reasons for delay
1	2	3	4	5	6	7	8

(3) The Chie Judicial Magistrate and the Chief Metropolitan Magistrate should send the explanatory notes referred to in sub-rules (1) and (2) to the concerned Sessions Judge or Metropolitan Sessions Judge for transmission of the same to the High Court Division with his remarks, if any.

Note 1. Clear and concise explanations regarding delay should be submitted by the Magistrates.

Note 2. In regard to cases which are shown to be pending on account of any proceedings including Appeals or Revisions in the High Court Division, particulars of such proceedings should be furnished along with the explanation.

Rule 404. (1) The Judicial Magistrates or the Metropolitan Magistrates shall submit monthly a general statement of business coming before their Courts and the work done by them in Form No. (S) 1 to the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be.

(2) The Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall send monthly a consolidated statement of works done by all the Judicial Magistrates or the Metropolitan Magistrates of the district

or the Metropolitan area, as the case may be, in Form No. (S) 1 to the concerned Sessions Judge or the Metropolitan Sessions Judge.

(3) The Executive Magistrates shall send a monthly statement of business and the works done by them to the District Magistrate in Form No. (S) 1A.

Rule 405. The Additional Sessions Judges and Joint Sessions Judges shall submit monthly statements in Form No. (S) 2 to the concerned Sessions Judge or Metropolitan Sessions Judge.

Rule 406. Along with the monthly statements every Additional Sessions Judge and Joint Sessions Judge should submit a statement of adjourned Sessions and other criminal cases in Form No. (S) 3 with particulars therein mentioned duly filled in.

Note. A blank statement shall be submitted if no Sessions or other criminal cases are adjourned in the month.

Rule 407. (1) Along with the monthly statements Additional Sessions Judges and Joint Sessions Judges should submit statements in Form No. (S) 4 to the Sessions Judge showing the cases or appeals that they have heard but judgment thereof have not been delivered.

(2) The Sessions Judge or the Metropolitan Sessions Judge should scrutinize the statements submitted to him under sub-rule (1) and pass necessary orders thereon with a view to avoiding all unreasonable delay, but if considered necessary in any particular case, a report of the matter may be made to the High Court Division.

(3) All Judicial Magistrates and Metropolitan Magistrates should submit to the Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, a statement in Form No. (S) 5 showing the cases in which trials have been concluded but judgments have not been delivered.

Rule 408. (1) The Judicial Magistrates and the Metropolitan Magistrates should submit to the Chief Judicial Magistrate and the Chief Metropolitan Magistrate respectively quarterly, a general statement of business coming before their Courts and the work done by them in Form No. (S) 6.

(2) The Chief Judicial Magistrate and the Chief Metropolitan Magistrate should send to the Sessions Judge and the Metropolitan Sessions Judge, as the case may be, for onward transmission to the High Court Division quarterly, a consolidated statement of works done by all the Judicial Magistrates and Metropolitan Magistrates in Form No. (S) 6.

Rule 409. The Sessions Judge and the Metropolitan Sessions Judge should submit quarterly to the High Court Division in Form No.(S) 6 a consolidated general statement of works including the number of cases received and Appeals/Revisions filed.

Rule 410. (1) The Executive Magistrates should send a quarterly statement in Form No. (S) 6A to the District Magistrate for onward transmission to the High Court Division.

(2) The District Magistrate should send a consolidated quarterly statement in Form No. (S) 6A to the High Court Division.

Rule 411. The Chief Judicial Magistrate and the Chief Metropolitan Magistrate should send along with their quarterly returns a concise statement in Form No. (S) 7 regarding the numerical outturn of work shown by each Judicial Magistrate or Metropolitan Magistrate and a separate expression of opinion as to the adequacy of work done by such Magistrates including Additional Chief Judicial Magistrate and Additional Chief Metropolitan Magistrate.

Rule 412. (1) The Sessions Judge or Metropolitan Sessions Judge should submit with the quarterly returns a concise statement in Form

No.(S) 7 regarding the numerical outturn of work shown by the Chief Judicial Magistrate, the Chief Metropolitan Magistrate, the Additional Sessions Judge or the Joint Sessions Judge, as the case may be, and a separate expression of opinion as to the adequacy of work disposed of by each officer during the quarter stating reasons, if any, which may account for shortage in disposals by any of them.

Note 1. If is not possible to fix any standard outturn of work applicable to all Courts. In reviewing the work of each Judicial Officer, regard should be had to the state of the pending file, the complexity or otherwise of the cases disposed of, the rise or fall in serious contest, the time spent by an officer in discharging duties when placed in administrative charge of any department, and other reasons, if any.

Note 2. Names of officers are in may cases bracketed together with the comment "fair" or "unsatisfactory". Such expression does not convey any correct idea of the work of each officer. The Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, should make individual comment in each case with special reference to any deficiency apparent in the outturn.

(2) When the returns contain any adverse remarks regarding the numerical outturn of an officer, he should be confidentially supplied with a transcript of such remark, with a view to rectifying the defects in future.

Rule 413. Annual statements shall be prepared in the Form prescribed in Volume II and sent to the High Court Division within the period fixed for the purpose.

Note. Most of the Annual Statements can be readily compiled from the Statistical Registers. In the case of others, it is essential that the requisite information should be collected from time to time, so as to be

available without delay at the close of the year. In the latter case, Sessions Judges, Metropolitan Sessions Judges, Chief Judicial Magistrates and Chief Metropolitan Magistrates should be careful to require the concerned Assistants of their Courts, and Courts subordinate to them, to collect the information at convenient intervals.

Rule 414. The District Magistrates should send their Annual Statements to the High Court Division in Form No. (S) 10A.

Rule 415. Officers having work in more departments than one should always note in their returns how their time was apportioned between the various departments. This is necessary to enable the High Court Division to judge whether the work done is sufficient.

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

CHAPTER XXIV

ANNUAL AND CONFIDENTIAL REPORTS

1. Annual Reports

Rule 416. (1) The Chief Judicial Magistrate and the Chief Metropolitan Magistrate shall submit to the Sessions Judge or the Metropolitan Sessions Judge, as the case may be, along with the annual returns and statements, a report for the year to which these refer upon the administration of criminal justice for onward transmission to the High Court Division.

(2) The Sessions Judge, Metropolitan Sessions Judge, Special Judge, Judge of the Tribunal and District Magistrate shall submit similar reports to the High Court Division along with the annual returns and statements.

Note. Due importance should be given to the Annual Reports and the same should not be treated as a matter of routine. Discrepancies between the pending figures of the previous year and the opening figures

of the year under report, if not fully explained, may lead to unnecessary correspondence and this should be avoided.

Rule 417. (1) No particular Form is prescribed for the Annual Administrative Report. It is left to the Judges and Magistrates concerned to put on record the main features in the administration of criminal justice of the year under review in the manner which may appear to them most suitable.

(2) Matters requiring special attention or suggestion regarding modification of rules shall be stated separately in the report.

Rule 418. Information regarding the following matters shall, however, be included in the Annual Report, in so far as they relate to the Court concerned, with explanation of important or suggestive variations in the statistics, namely: -

(a) Judicial or Executive staff employed during the year under report;

(b) number of criminal cases registered during the year and pending at the end of the year with the number of cases instituted in the previous year and pending at the end of that year in order to assess whether the number of pending cases increases or decreases;

[For the Courts of Magistrates]

(c) number of complaints dismissed under section 203 of the Code during the year under report and that of the previous year;

(d) number of cases pending before the Magistrate and at the beginning of the year under report and number of cases disposed of by them.

(e) results of the cases disposed of on trial, mode of trials and nature of sentences passed during the year under report with that of the previous year should be shown preferably in tabular form;

(f) number and nature of the miscellaneous proceedings under the Code as compared with the previous year;

(g) number of cases taken cognizance on police report and otherwise than on police report with the figures of the previous year;

(h) (i) number of witnesses examined in the Courts of Magistrates with statement of the total number in attendance, number discharged without examination, number of witnesses detained with number of days for which they were detained and reasons for detention for more than three days,

(ii) amount paid to witnesses as expenses for the year under report with that of the preceding year;

(i) number of cases in which cognizance has been taken by a Judicial Magistrate under clause (c) of sub-section (1) of section 190 of the Code;

(j) number of cases relating to Juvenile offenders tried by the competent Judicial Magistrate as Juvenile Court under section 4 of the Children Act, 1974.

[For the Courts of Session and Tribunals]

(k) (i) number of cases sent for trial or referred to and the number of cases tried during the year under report with the number of the pending cases of the previous year,

(ii) increase or decrease in the number of cases disposed on trials as compared with that of the previous year;

(l) (i) number of witnesses examined with the statement of the total number in attendance, number of witnesses discharged without

examination, number of witnesses detained with the number of days for which they were detained and the reasons for detention for more than three days.

(ii) names and designations of officers responsible for the detention of witnesses over three days with the opinion of the Sessions Judge, whether detention was justified or not,

(iii) amount paid to witnesses as expenses for the year under report with that of the preceding year;

(m) number of cases sent back by the Sessions Judge or the Metropolitan Sessions Judge for trial to the Chief Judicial Magistrate or to the Chief Metropolitan Magistrate, if any, with figures of the previous year;

(n) results of the cases disposed of, mode of trials and nature of sentences passed during the year under report with those of the previous year;

(o) average duration of Sessions trial from the date of receipt of records under section 205C of the Code to the date of disposal with such average duration of the previous year;

(p) (i) number of appeals pending before the Court of Session, the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, at the beginning of the year, the number of appeals filed and disposed of during the year under report with that of the previous year,

(ii) number of appeals filed from the Jail and number of appeals filed through lawyers during the year under report with those of the preceding year,

(iii) number of Jail appeals which were summarily dismissed without calling for records;

(q) number of revisions disposed of by the Court of Session during the year stating the manner of disposal with that of the previous year;

[General]

(r) whether the rules regarding arrangement and destruction of records have been properly observed (see rules 341 and 361);

(s) information should be given on the following subjects: -

(i) date of the last inspection of the Record Room by the Sessions Judge or the Metropolitan Sessions Judge or the Chief Judicial Magistrate or the Chief Metropolitan Magistrate or the District Magistrate, as the case may be,

(ii) whether records were properly classified and neatly arranged,

(iii) whether records requisitioned were promptly despatched,

(iv) whether records were destroyed on due dates;

(t) number of cases in which the provisions of section 250 of the Code were invoked, amount of compensation imposed, amount realized and amount paid to the parties;

(u) number of persons in respect of whom death sentence was executed during the year;

(v) total number of cases in which prosecution has been allowed to be withdrawn under section 494 of the Code;

(w) total receipts and different sources of revenue;

(x) effect of any recent legislation on the working of the Court;

(y) the state of the Record Room which must be ascertained by careful personal enquiry and not from the mere report of the Record-Keeper;

(z) noticeable fluctuations in the average duration of cases and appeals and in the percentages of appeals and confirmation as compared with those of the previous year;

aa) Noticeable increase or decrease of arrears of cases as compared with that of the previous year;

bb) Noticeable increase or decrease in the number of applications for information as compared with that of the previous year;

cc) Observance of the rules regarding distribution and service of processes, efficiency of the process-serving establishment, percentage of personal service, any noticeable rise or fall in the number of processes served, as compared with that of the previous year and its effect on the strength of the process-serving establishment;

dd) Cases of corrupt practices among the staff which came to the notice of the Authority and the punishment awarded to corrupt employees;

ee) Whether improvement or repair of the court building is required and internal alteration is expedient; and

ff) Name of each officer presiding over the Court during the year, the period for which he held charge and total criminal (and civil, when applicable) work done by him.

Note. The length of the report should be curtailed as far as possible by the omission of figures appearing in the annual returns submitted to the High Court Division.

Rule 419. The annual report of the District Magistrate shall contain so much of the information as may be relevant for the Executive Magistrate and he will submit, in addition, the following particulars: -

(i) working of sections 98, 100, 105, 107, 126A, 133, 144, 145 and 147 of the Code,

(ii) number of cases dealt with by the Executive Magistrate under different sections of the Code as compared with the figures of the previous year,

(iii) comment of the increase or decrease in the proceeding under sections 145 to 147 of the Code, and

(iv) whether any dispute has been raised in any particular case regarding the scope of functions of any Executive or Judicial Magistrate.

2. Annual Confidential Report

Rule 420. (1) The Chief Judicial Magistrates and the Chief Metropolitan Magistrates, as the case may be, are required to submit separate confidential reports of the Judicial Magistrates and Metropolitan Magistrates including the Additional Chief Judicial Magistrates and the Additional Chief Metropolitan Magistrates served under them during the previous year or any part thereof, but not less than three months, in the prescribed Form No. (M) 41B for the Judicial Magistrates (Second class Magistrates and Third class Magistrates) to the High Court Division not later than 15th February of each year and in Form No. (M) 41A for the Additional Chief Judicial Magistrates, Additional Chief Metropolitan Magistrates and Senior Judicial Magistrates (1st class Magistrates, Metropolitan Magistrates, Special Magistrates) completing relevant parts

of it to the Sessions Judge or Metropolitan Sessions Judge, as the case may be, not later than 31st January of each year.

(2) The concerned Sessions Judges and the Metropolitan Sessions Judges are required to submit to the High Court Division not later than 15th February of each year separate confidential reports for the Metropolitan Additional Sessions Judges, Chief Judicial Magistrates, Chief Metropolitan Magistrates, Joint Sessions Judges, Additional Chief Judicial Magistrates, Additional Chief Metropolitan Magistrates and Senior Judicial Magistrates served under them during the previous year of any part thereof, but not less than three months, completing relevant parts in the prescribed Form No. (M) 40A for the Metropolitan Additional Sessions Judges, in Form No. (M) 41 for the Chief Judicial Magistrates and Chief Metropolitan Magistrates, and in Form No. (M) 41A for the Additional Chief Judicial Magistrates, Additional Chief Metropolitan Magistrates and Senior Judicial Magistrates and in Form No. (M) 40B for the Metropolitan Joint Sessions Judges.

Note 1. In writing annual confidential reports of Additional District and Sessions Judges, Form No. (M) 8A and Joint District and Sessions Judges, Form N. (M) 8 of the Civil Rules and Orders volume II, (which are already in use) shall mutatis mutandis apply.

Note 2. The confidential reports should be on the work, character, qualifications and official merits of the Judges and Magistrates serving under the Sessions Judges, Metropolitan Sessions Judges, Chief Judicial Magistrates of Chief Metropolitan Magistrates, as the case may be, during the previous year of any part thereof, but not less than three months, in which the work done by each officer is to be analysed and commented upon, only as aids to forming opinion as to their respective qualities and fitness for promotion. This is not, however, to debar the Sessions Judges,

Metropolitan Sessions Judges, Chief Judicial Magistrates and Chief Metropolitan Magistrates from making remarks in the Administrative Report regarding the special merits of individual officers.

(3) The Sessions Judges, and Metropolitan Sessions Judges, Special Judges and Judges of the Criminal Courts or Tribunals in the rank and status of Sessions Judge serving under the High Court Division during the previous year or any part thereof, but not less than three months, are required to submit respectively in Form No. (M) 9B of the Civil Rules and Orders volume II (already in use) and in Form No. (M) 40 completing parts I, II and III of the High Court Division not later than 15th February of each year (See Appendix II in relation of Sub-rules (1)d to (3) of Rule 420).

(4) Before leaving the district on transfer of otherwise, the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, shall write confidential reports of the Judicial Officers serving under them for at least three months in the prescribed Form and leave the same to the successor-in-office for annual transmission to the High Court Division.

Note 1. Before leaving a district of a Metropolitan area in which he served, the sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, who has had sufficient opportunity of seeing the work of subordinate Judges and Magistrates and in a position to offer his considered opinion, may place or record for his successor's information, reports on their character, qualifications and official merits.

Note 2. The Sessions Judges, Metropolitan Sessions Judges, Chief Judicial Magistrates or Chief Metropolitan Magistrates, as the case may be, are reminded that as a general rule, in no case, should an officer be kept in

total ignorance for any length of time that his superior officers after sufficient experience of his work are dissatisfied with him. In cases where a warning might eradicate or help to eradicate a particular fault, the advantages of prompt communication are obvious.

(5) Confidential reports should set out distinctly and tersely sufficient particulars and it is essential that they should be clear and definite so that the High Court Division may form a correct opinion on the merits of the officer. In the case of a very bad report, it is necessary that the unfavourable traits should be briefly illustrated. No adverse remarks should be made which cannot be supported by precise data, which are liable, especially in the case of a very bad report of an officer who had hitherto a good or average record, to be called for by the High Court Division.

(6) The Sessions Judges, Metropolitan Sessions Judges, Chief Judicial Magistrates or Chief Metropolitan Magistrates, as the case may be, should form a clear and reasoned estimate of the merits or demerits of the officers under them on proven or known facts and express their views clearly and fully. What is desired is not a mere opinion, but a considered and definite opinion founded on a real knowledge of the officer and his work based not merely on appeals but on scrutiny of cases and proceedings which do not come in appeal and on a knowledge of the officer's administrative and other capabilities. The reports should be unambiguous and straightforward.

Note. Vague and inconclusive remarks or the use of such vague general expressions as "satisfactory", "bad" or the like are not very helpful and defeat the object with which such report is prescribed. When it is said and an officer is "good", it may be taken to mean that a reporting officer

has really no criticism to offer. But if an officer has any particular good quality worth mentioning e.g., "energetic" or "sound in judgment" or "tactful", it may be of great advantage that it should be specially mentioned. In reporting unfavourably of an officer, the use of such vague expressions as "bad", "unsatisfactory", or "useless" is distinctly more objectionable. It is essential to know, if possible, wherein the badness exists. The report should state whether the officer is "perverse", "untrustworthy", "lazy", "perfunctory" or whatever the particular characteristic of his work may be; and it is a good thing to illustrate briefly the unfavourable traits.

(7) The Sessions Judges, Metropolitan Sessions Judges, Chief Judicial Magistrates and Chief Metropolitan Magistrates are required to submit on or before the 15th March of each year a confidential report of the previous year on the work and character of the Administrative Officers and Nazirs of their Courts and a copy of their yearly landed property statements showing immovable property held, acquired, or disposed of by them including property acquired in the name of their relations and other persons. Their character and reputation should be specially reported upon.

Rule 421. (1) The manner in which Judicial Officers have managed their officers and discharged their duties when placed in administrative charge of departments (e.g., the Accounts, the Record Room, the Copying Department or Nazarat, etc.). should be specially reported on and any instance of special excellence should be brought to the notice of the High Court Division. Administrative ability in an officer counts no less than capacity for judicial work and such reports are of the greatest value to the

High Court Division in assessing the merits of a particular officer, and his fitness for promotion or progression in his career.

Note. Such reports should invariably state whether the officer exercises effective control over his office and the departments he may be in charge of. It is often simply mentioned that an officer held charge of a department. Such information conveys no real meaning and is of no use.

(2) If the confidential reports on the work and character of Judicial Officers contain remediable defects or any adverse remarks regarding an officer which in the opinion of the High Court Division should be communicated to him for his guidance and correction, a transcript of the remarks will be sent by the Registrar directly to the officer concerned.

(3) The High Court Division has observed a tendency on the part of a number of Judicial Officers to attach undue importance to a large numerical disposal of cases in their Courts. It has reason to fear that such officers work solely to make a show in the annual returns under the erroneous belief that the outturn of cases in mere figures is considered as the only test of merit. But the impression that the number of cases disposed of is regarded as a test of merit and ability is altogether mistaken. The quantity of work done, if it is well done, is no doubt a measure of an officer's energy, but a Judicial Officer's merit and his fitness for promotion are mainly judged by the quality of his work which is of far more importance to the interests of justice than mere quantity. It is not possible to lay down any standard outturn of work which for all Courts, as much depends on the intricacies or otherwise of the cases disposed of, the state of the file, the nature of the contest and other things. But every

officer is required to do a fair share of work and the aim should be quality combined with reasonable despatch.

Note. When an officer's return exhibits an unusually large number of disposals of contested cases, the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, should examine some of the records with a view to determining whether he has been picking out only easy cases in disregard of their chronological order, or showing cases as decided after full trial where the contest is unreal or nominal, or doing his work in s slipshod and perfunctory manner.

CHAPTER XXV

LIBRARIES

Rule 422. In each Judgeship, Judicial Magistracy and Metropolitan Magistracy there shall be a Librarian in charge of the Library who shall primarily be responsible for the custody and preservation of books therein. This will not relieve the Judge-in-Charge of the Library of his general responsibility.

Rule 423. It shall be the duty of the Librarian: -

(a) to stamp seal of the Court on the Title Page and several leaves of each book;

(b) to affix on the lower portion of the back of every book received a label with a number corresponding to the number in the catalogue;

(c) to keep a classified and indexed catalogue of all books in the Prescribed Form and to prepare a new catalogue every five years;

(d) to cheek the catalogue with the books at the commencement

of each year and to submit a report to the Judge-in-Charge of the Library;

(e) to make all books upto-date by affixing slips of the Amending Acts or Rules; and

(f) to issue books from the Library in accordance with rule 425 and to see that no book is issued otherwise.

Rule 424. Books shall be classified in the catalogue and arranged in the Library in the following manner: -

(i) Regulations and Acts,

(ii) Special Acts,

(iii) Commentaries on Acts, and Text Books,

(iv) Law Digests and Index of Cases,

(v) Department Codes, Guides, Manuals and Circulars,

(vi) Law Reports (all kinds)

(vii) Periodicals,

(Viii) Administrative Reports,

(ix) Dictionaries, Glossaries, Gazettes, Directories, and

(x) Miscellaneous.

Note. Where the library is small, classification should be according to subjects and the books arranged in the shelves accordingly.

Rule 425. (1) Correct catalogue of thick paper must be kept in the Library in the following form in manuscript. The binding of a catalogue should be flexible, unless its size as requires stronger binding. The name of the author, the edition and the year of the publication should be noted against each book.

Group No. Title of Group.

Ser. Nos	Title of Books	Author's name and year of edition/publication	Date of receipt	Nos. of Volumes.	Nos. of copies in library	Alimrah of rack nos.	Shelf no.	Remarks
1	2	3	4	5	6	7	8	9

(2) When a new catalogue is made, there should be a certificate by the Librarian of the Library that all the books in the previous catalogue have been carried to the new catalogue. The Judge-in-Charge of the Library will initial it after satisfying himself about its correctness.

Rule 426. (2) When any Judicial officer requires a book from the Library, he shall send a requisition for it on a slip of paper, which shall be returned when the book is returned to the Library.

(2) The Librarian shall enter in a Register to the kept in the following Form for that purpose.

(a) the serial number;

(b) the name and number of each book removed from the Library on that day and not returned before the close of the day;

(c) the date when it was removed:

(d) the name of the person to whom issued;

(e) the borrower's initials with date;

(f) the date of return and the Librarian's initials;

(g) the date of each reminder; and

(h) remarks.

Note. When the signature of the borrowing officer cannot be conveniently obtained, the requisition slip should be filed in chronological order, serially numbered and the serial number shall be entered in the column against item (e) of this sub-rule.

Rule 427. (1) Every reasonable facility should be afforded to all the other Judges and Magistrates to consult the books in the libraries of the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate and Chief Metropolitan Magistrate.

(2) As a Court cannot be reasonable expected to function efficiently when it lacks an essential part of its equipment, every endeavour should be made to provide each Court with a mini library containing up-to-date editions of annotated Acts and Text Books which are constantly required for use in the Court.

Note. The Presiding Officer concerned shall place an Assistant in charge of the mini library for safe custody and preservation of books kept therein. From time to time Presiding Officer shall verify the stock and catalogue of the books of mini library.

Rule 428. Every Librarian upon assuming his charge is to satisfy himself that the books are complete and in good condition, and that the catalogue and lists are duly kept up-to-date. Unless he then reports deficiencies, if any, it will be presumed that he received the Library in good order, and he will be thenceforward personally responsible for defects, if detected afterwards.

Rule 429. The Librarian or any Assistant-in-Charge of the Library should occasionally inspect to almirahs to see that the books are not destroyed by white ants or lost.

Rule 430. The physical verification of the stock of books in the Library should be made by the Judge-in-Charge of the Library every year either personally or by an officer other than the Librarian, and the fact of such verification shall be recorded in the stock book or the catalogue.

Rule 431. The Judge-in-Charge should from time to time inspect the books and weed out the duplicate copies of superseded editions and books which are of no further use. They may be sold to the best advantage.

Rule 432. The copy of the Bangladesh Gazette including all Extra ordinary Gazette or other periodical publications received by the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, should be circulated by the Librarian to the other Judicial Officers of the station with a slip attached.

Rule 433. Reports, gazettes, and other books supplied to Judges and Magistrates are not to be taken away by the incumbents on their promotion or transfer, but are to be transferred to their successors-in-office.

CHAPTER XXVI
FORMS, STATIONARY, FURNITURE AND STORES

Rule 434. Each Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate and Chief Metropolitan Magistrate should place an Assistant in charge of the stock of Forms required for all the Courts under each of them. Such Assistant should supply Forms to the Courts on requisition ordinarily once a week and to parties daily at an hour to be fixed by the Judge-in-Charge of Forms.

Rule 435. A list of Forms with their numbers assigned to each should be prepared showing the due dates for the indents to be submitted as well as the due dates for receipt of the indents and kept hung on a card. The list should be corrected from time to time as a new Forms are added or any of the existing Forms declared obsolete.

Rule 436. The Forms shall be arranged on the rack by groups in accordance with the classification given in Volume II and name of each Form with serial number shall be shown against in on the shelf. A board indicating the name of each group of Forms will be exhibited against such group.

Rule 437. A stock Books of Forms shall be correctly maintained by the Assistant placed in charge of them in the prescribed Form No. (R) 26. A separate page or a sufficient number of pages should be given to each group of Forms, so that under each item the transactions of several years may be recorded continuously. The balance shall be struck after each transaction and the balance on the 30th June and the 31st December of each year shall be verified by counting the Forms on the rack and a note of the verification made on each page of the Stock Book.

Rule 438. The Judge-in-Charge of Forms should see that indents are prepared with care in such a way as to render supplementary indents during the year unnecessary and to prevent the inclusion therein of which there is already a sufficient stock. Before the submission of an indent, the Assistant should prepare a statement showing the actual for the immediately preceding three years, the average for these years, the balance in hand and the estimated consumption till the date of the receipt of the indent. Estimates prepared on the above data can be conveniently checked and brought as near as possible to actual requirements. Forms enough to last for a whole year and to leave a margin of three months' consumption at the end of that year shall be entered in the indent. When Forms are published in books, the number of books should be stated.

Note. It should be seen that indents are sent for new or revised Forms as soon as possible after they are printed and that no manuscript Forms of which a printed copy is available is used, though there was failure to send indent in time.

Rule 439. Saleable Forms printed by Government and available from the Nazir, or any other employee appointed in this behalf by the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate and Chief Metropolitan Magistrate, or the licensed stamp vendors, must be used in Court. Non-saleable Forms printed by private presses may be used provided hey conform to the models of the prescribed Forms and the paper is of a quality not interior to that of the Forms supplied by the Government.

Rule 440. Issue of Forms is to be made on written requisitions containing the following particulars; (i) description of Forms, (ii) purpose

for which required, (iii) number required and (iv) name of person. The requisitions with the remarks of the Assistant in charge are to be put up before the Judge-in-Charge of the Forms, who pass necessary orders and the Forms will be issued accordingly. The requisition slips should be retained for two years.

Rule 441. Whenever there is a change of the Forms Assistant, a balance shall be stuck by the outgoing Assistant and the Assistant receiving charge shall verify the balance by counting the Forms on the racks. Unless he then reports deficiencies, if any, it will be presumed that he received the stock shown and he will be thenceforward personally responsible for shortage or defects, it detected afterwards.

Rule 442. The allotment for purchase of stationery should be divided among the Courts in a district according to their respective requirements and the stationery articles of the value representing the allotments should be supplied separately to each Court for its consumption.

Rule 443. The Assistant-in-Charge of Forms shall also remain in charge of the stationeries and maintain a Stock Book in Form No. (R) 27 showing accounts of receipts and issues of the stationeries. The recipient and issuer of stationeries shall put their respective initials in the columns provided for the purpose at the time of the receipt and issue of stationeries and at the same time the issuer will cancel the blank columns. The opening and closing balances will be struck monthly by the said Assistant. The Judge-in-Charge of Forms shall also be the Judge-in-Charge of stationeries, and shall cause the stock thereof to be verified half-yearly by an Assistant who report the result and make a note of the verification in the

Stock Book. The Judge-in-Charge will initial after satisfying himself about the correctness.

Rule 444. A Stock Book shall be maintained by the Nazir in the prescribed Form No. (R) 28(i) of all articles of office furniture and stores. All new purchases, issues and sales of old stock must be entered in it as they occur. A verification of the stock should be made at least once a year by an Administrative Officer under the supervision of the Judge-in-Charge. A note of the verification should be made in the Stock Book and all discrepancies noticed should be accounted for immediately.

CHAPTER XXVII
OFFICE RULES AND ADMINISTRATIVE WORKS
1. Office and Routine

Rule 445. No one not being a member of the office establishment will be permitted to enter any office room without the special permission of the presiding Officer or the Judge-in-Charge, as the case may be.

Rule 446. (1) The Administrative Officer of the Court of Sessions Judge, Metropolitan Sessions judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate , as the case may be , will held responsible for the due and prompt performance of all duties connected with the management and supervision of the office and the departments attached . He will also be responsible for the condition of the offices, the records kept there and the work done by the staff employed.

(2) It is the duty of the Administrative Officer to insist on the regular and efficient discharge of all kinds of business for which any and every member of the establishment is responsible, to exercise proper personal control and supervision over them to make himself thoroughly acquainted with each man's work and check it frequently, to give proper instructions regarding the maintenance of Registers etc., and the performance of other duties and to see that the Rules and Orders of the High Court Division are strictly carried out.

(3) The Administrative Officer should inspect from time to time the work of each member of the staff and submit periodical reports to the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, regarding the condition of the office and the work of the staff of different Courts and departments. At the apparent indication of arrears in the work of any employee, or of such a pressure of work as is likely to cause arrears, the matter must be reported at once to the concerned Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate and Chief Metropolitan Magistrate and all cases of unreasonable delay in the disposal of business, misconduct and neglect or improper discharge of duty should be promptly brought to his notice. Whenever an Assistant of the establishment is about to go on leave or transfer, the Administrative Officer should report to the concerned Presiding Officer about the arrears of his work, if any.

(4) A Pending List should be maintained in every Court by the Administrative Officer in the prescribed Form No. (M) 32 for inspection by the Presiding Officer of the Court concerned with a view to checking arrears or delay in the disposal of day to day business.

Note 1. The Pending List shall be laid before the Presiding Officer for his examination at least once a fortnight and the fact of such

examination having been made together with such instructions or remarks, as may appear necessary, shall be entered by him.

Note 2. All arrears of work in the office at the end of the preceding fortnight regarding entries in the various Registers, noting of results of cases, writing of Table of Contents, return of documents, periodical despatch of records, copies, information, etc., should also be briefly noted in the Pending List.

Rule 447. (1) For better conduct of the business in all Criminal Courts and offices, the High Court Division approves that at the entrance of each room, occupied by the Assistants, Copyists, Typists and Computer Operators, a wicket gate shall be placed with a spring through which no outsider shall be allowed to enter. Inside each office a list of employees, entitled to occupy the room shall be hung in an appropriate place. Outside the entrance to the room, a board having printed on it both in Bangla "**জনসাধরেণের প্রবেশ নিষেধ**" and in English "No Admittance for the Public" should be hung in a conspicuous place. The Presiding Officer of the Court should make surprise visits to the rooms occupied by the employees and call the roll; and in the event of his finding any outsiders inside the rooms, the Assistant-in-Charge of the concerned office/department should be taken to task.

(2) All transactions between the Public including the Advocates' Clerks and the office/department shall be over the wicket gate as far as practicable and no one will have access to any member of the establishment except to the Assistant-in-Charge and such other employees as the Presiding Officer or the Judge-in-Charge may in his discretion authorise.

(3) The concerned Presiding Officer or the Judge-in-Charge will see that as far as practicable these Assistants sit near doors or windows to be accessible to the public. Where this is not practicable, persons may be allowed to come up to their tables for the transaction of any business, but no one shall be permitted to handle or touch any papers unless it is required for the purpose of obtaining his signature.

Rule 448. (1) In order that it may be proved who was directly responsible for the entries in a particular Register or record, the High Court Division approves that each Assistant shall keep a Duty Card showing the particulars given in the following Form:

Name of Assistant Department

Nature of work.			
Assigned duties	Registers to be dealt with	Miscellaneous duties	Remarks.
1	2	3	4

(2) This Card is to be signed by the Presiding Officer/ Judge-in-Charge and the Assistant concerned, and a duplicate of the same, similarly signed, is to be kept by the Assistant-in-Charge of the office or department to which the Assistant belongs. Such Assistant-in-Charge of the department will be responsible for having all changes in the nature of the work of each employee under him duly entered on the Card. The Card will show the dates on which each successive Assistant assumed and relinquished charge of his desk or office or department and also the date of the last distribution of work.

Rule 449. The employment of outsiders by the Assistant-in-charge for helping him in his work or getting office papers written is strictly forbidden. Judicial Officers should keep a strict watch on this objectionable practice and any subordinate employee found violating the rule should be severely dealt with.

Rule 450. (1) Correspondence between Judicial Officers of all grades interse and the officers of various departments of the Government of whatever status, shall be by letter or memorandum. But the memorandum, or the endorsement form should be used whenever it can conveniently be adopted.

(2) When correspondence relates to the transmission of returns, documents etc, or other routine matters, memoranda or endorsements should be substituted as much as possible for covering letters. Such memoranda and endorsements should be numbered and dated.

(3) Correspondence addressed to or by the Judicial Officer should never be in an intemperate language and the same is expected to be courteous and dignified befitting for a Judge or Magistrate.

Rule 451 (1) The name and official designation of the writer of an official letter, with the number and date of the letter, is to be prefixed to it, number and date of every letter referred to is invariably to be quoted, and every paragraph is to be numbered.

(2) Correspondence should be precise as much as possible and repetitions and details be avoided.

(3) Separate letters or memoranda shall be written on distinct subjects.

(4) Demi-official correspondence shall not be quoted in official correspondence.

Rule 452. The use of facsimile stamp in official correspondence even in matters of routine may provide ample opportunities for fraud. All correspondence shall be signed by the forwarding officer and should it not be possible for him to sign all letters, they should be signed for him by some responsible and trusted official.

Rule 453 (1). All Judicial Magistrates including Additional Chief Judicial Magistrates and Additional Metropolitan Magistrate shall make correspondence with the Sessions Judge or Metropolitan Sessions Judge or any other office through the Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, and the latter should forward the same with his own views, if required.

Note: This rule does not apply to a case where a reply is sent by a Judicial Magistrate to the Sessions Judge in a judicial matter.

(2) The Sessions Judges should ordinarily make communication with the Additional Chief Judicial Magistrates, Additional Chief Metropolitan Magistrates, Judicial Magistrates or Metropolitan Magistrates through their respective Chief Judicial Magistrate or Chief Metropolitan Magistrate.

Rule 454. Judicial Officers when signing papers are required to take particular care that their official signatures are always so distinctly and readily legible that there may never be any room to doubt their genuineness and authenticity.

Rule 455. Where a regular postal service exists between one place and another not being in the same station or head-quarters, all official

letters or post-cards passing between those two places should ordinarily be sent by post, whether it be cheaper to send them by hand or not. They may, however, be sent by hand if owing to the nature of their contents or to their urgency, it is necessary in the public interest to send them in that manner. Letters from the Principal Judicial Officers to their subordinates should be sent in separate covers addressed to each of them as it is an improper use of postal facilities to post letters for several addresses in one envelope. Articles not being letters or post cards e.g., newspapers, printed circulars and records may be sent by means other than the post office, e.g., by railway or through messengers.

Rule 456. (1) When confidential covers are sent out of an office, they should be placed in double covers, the inner cover being sealed, marked "confidential" and super-scribed with the name only of the officer for whom they are intended, the outer cover being addressed by his official designation only and without the addition of his name.

(2) When the employee tasked with the opening of letters finds inside the cover another envelope marked 'Confidential' and addressed by name to the Head of the Office, he should be careful not to open it, even if the Head of the Office is away from his office. The addressee should invariably open the inner cover himself and allow no subordinate to open it.

Rule 457. In the Courts of Additional Sessions Judges, Joint Sessions Judges and Magistrates, it will ordinarily be sufficient to have two correspondence files-one for letters received and another for draft of letters issued during each year. The papers should be arranged in chronological order; the first letter received or issued being at the bottom of the file, and

the last letter issued or received being at the top. Each letter issued will have assigned to it a consecutive number called the serial number.

Rule 458. (1) Correspondence should ordinarily be preserved for three years. From correspondence three years old, the more important papers should be sorted out for preservation and the rest destroyed. Office copies of monthly and quarterly statements should be destroyed after three years and annual statements after six years.

(2) Newspapers, pamphlets and publications of other departments of the Government, acknowledgments, reminders and other papers for which there is no further use shall be destroyed at such interval as the Presiding Officer or Judge-in-Charge concerned may direct.

Note. Newspapers and other printed publications destroyable under this rule may be sold to the best advantage if they have marketable value and the sale proceeds should be deposited in the Government Exchequer under appropriate head.

Rule 459. (1) There should be separate files for (i) General and Special Letters issued by the High Court Division; (ii) Circular Orders of the High Court Division; (iii) Circulars and Notifications of the Government and (iv) Circulars of other departments of the Government arranged chronologically with date-stamp of receipt and page mark. To the files of General and Special Letters and Circular Orders of the High Court Division shall be prefixed an index in alphabetical order in which the subject of each letter or circular shall be entered at the time it is filed. General and Special Letters should be permanently preserved and when the

collections thereof of several years run into the thickness of a reasonably-sized volume, they should be bound.

(2) All amendments relating to these Rules should be promptly noted and all correction slips pasted in their proper places as they are received. The volumes should always be kept up-to-date and the index to addenda and corrigenda slips regularly written up.

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

3. Communications with the High Court Division

Rule 460. (1) All communications intended for the High Court Division should be addressed to the Registrar. High Court Division

(2) All envelopes addressed to the High Court Division should bear the despatch numbers of their contents and as far as possible, the number of enclosures to each letter.

(3) Correspondence relating to interpretation of rules should be addressed to the Registrar. High Court Division.

(4) All Demi-official letters of personal nature intended for the Registrar should be addressed to that officer by name and designation.

Rule 461. The pages and paragraphs of annual inspection and all other reports and similar lengthy communications submitted to the High Court Division, should invariably be numbered.

4. Administrative work, office management and supervision

Rule 462. (1) The attention of all Judicial Officers is drawn to the importance of constant supervision of the work done by their subordinates and efficient management of their offices or the departments placed under

their charge. The High Court Division had the occasion to observe that this part of their work does not always receive the care and attention it deserves and it is, therefore, desirable that all concerned should understand that when considering the merits of an officer for promotion or progression in his service career, equal stress is laid upon judicial capacity and administrative ability. Due attention should, therefore, be paid to administrative work, and failure to show administrative ability will go against an officer in future.

(2) The Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, shall divide the offices into departments and place each of the departments like Accounts, Nazarat, Copying Department, Record Room, Forms and Stationeries, etc., in the immediate charge of a separate Judicial Officer. Such officer generally to be designated as Judge-in-Charge, who shall be responsible for efficient working in the department.

(3) It is desirable that the Additional Sessions Judge, Joint Sessions Judge, Additional Chief Judicial Magistrate or Additional Chief Metropolitan Magistrate, as the case may be, who are engaged in more important work should not have their time for judicial work curtailed by such a charge. The selection is to be made from amongst the young, energetic and enterprising Judicial Officers who take an active interest in administrative work and rules of procedure.

Note: The Judicial Officer in charge of the Accounts should also hold charge of the Nazarat Accounts.

(4) The Judge-in-Charge of a particular department shall exercise control over the staff employed therein.

Rule 463. All information relating to Magistrates' Courts shall be collected through the office of the Chief Judicial Magistrate or the Chief Metropolitan Magistrate and for this purpose, the latter shall exercise general control over the offices of all Magistrates subordinate to him.

Rule 464. (1) It is an important part of the duty of a Judicial Officer to see that each of the employees subordinate to him does his work properly and with despatch. Supervision on the "Little and Often" principle in the daily handling of the records and papers brought before him or a chance visit to the office, and a cursory look at the Registers and books whenever there is an idle moment in the day's work will be found to be of considerable benefit and will prevent the commission of many errors and irregularities

(2) The results of such occasional inspection and the directions given from time to time in respect of errors, irregularities or wrong practices should be recorded in a note-book kept for the purpose.

CHAPTER XXVIII
INSPECTION AND CONFERENCE
1. Inspection

Rule 465. (1) The Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate, Chief Metropolitan Magistrate or District Magistrate, as the case may be, is required to inspect personally the work of all Courts

and offices under him ordinarily every year and to submit notes of inspection as soon as possible after the inspection. The Chief Judicial Magistrate, Chief Metropolitan Magistrate and District Magistrate should send the notes of inspection to the concerned Sessions Judge or Metropolitan Sessions Judge, as the case may be, for onward transmission to the High Court Division. The Sessions Judge and Metropolitan Sessions Judge are to submit notes of inspection to the High Court Division. An inspection must, however, be made of the Courts at the headquarters once every year and at the outlying stations, once in two years and an explanation should be given in each case, if such inspection is not carried out. The inspection should as far as possible be on consecutive days and not spread over a number of days at intervals.

(2) The Sessions Judge and Chief Judicial Magistrate should avoid making a long tour for inspection and the journeys undertaken for the purpose should be accomplished with all convenient speed.

Note. The Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, cannot delegate his power of inspection of subordinate Courts to the Additional Sessions Judge or Additional Chief Judicial Magistrate or Additional Chief Metropolitan Magistrate or any other Judicial Officer. If he is unable to inspect personally at the proper time on account of his being occupied with the hearing of any case of unusual length or for any other good reason, he should explain the circumstances and take orders of the High Court Division on the subject.

Rule 466. It is from inspections and the individual contact between the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate

or Chief Metropolitan Magistrate, as the case may be, and Presiding Officers of the subordinate Courts that the best results are obtained. At the time of inspection, the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, may call a meeting of all the Judicial Officers at the station with a view to promoting closer relation between him and the subordinate Judicial Officers and to discuss and explain all matters affecting the judicial administration. Their needs, queries, doubts and difficulties should be discussed and views exchanged frankly and freely.

Rule 467. (1) The object of an inspection is to satisfy that the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, and through him, the High Court Division that the Courts are functioning properly, that the rules prescribed are understood, that the work, judicial, departmental and ministerial, in each of the subordinate Courts is conducted strictly according to law, and the rules prescribed by the High Court Division; that it is disposed of with regularity, punctuality and efficiency; and to detect and correct errors, omissions and irregularities.

(2) Inspection which is the most important part of supervision should be constructive. The inspecting Judge or Magistrate should aim at discovering the difficulties of the officer whose work he is inspecting, and helping him to meet them. While his duty is, on the one hand, to observe and correct errors, he is also to encourage, give credit for the good work done, assist and advise. He should hear the officer patiently, if he has anything to say and should clearly and courteously explain all difficulties occasioned by inexperience, want of proper guidance or appreciation of

rules, change of system, and should invite free communication on all topics of mutual concern.

(3) Most faults discovered are due to want of guidance and that guidance can be best given personally. It is difficult to give it effectively by written orders. It is due to absence of personal touch that graver defects have come into being. The rules and circular orders are made with a definite object and are good in themselves. The flaw has been that they are not observed and that supervision has not been sufficiently effective to compel observance.

(4) The real task of the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, in inspection is to discover the manner in which Presiding Officers conduct their judicial work. The quality of judicial work can hardly be judged sufficiently at the time of inspection, but it is for the Inspecting Judge or Magistrate to see whether the Presiding Officer is an efficient organizer and supervisor.

(5) The work of inspection may be divided into three branches:

(a) Judicial- Referring to the procedure in the Court and the actual work of the Judicial Officers.

(b) Departmental (i.e. office work) Referring to the Registers, accounts, files, bills, statements, returns, etc. kept and submitted in conformity with Rules and Orders of the High Court Division

(c) Ministerial- Referring to the carrying out of the orders passed by the Judicial Officers.

Rule 468. Inspection being the most important part of supervision and occasions for inspection being sew and far between, the time spent on inspection is not be wasted or ill-spent. The High Court Division, therefore, desires it to be clearly understood that the opportunity presented at the time of periodical inspection of personally acquainting himself with the manner in which business of all kinds is conducted in each of the subordinate Courts should be fully availed of by the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, and the work under the three heads above should be done by the Judge himself. If extraneous help be indispensable on any occasion, which should be rare, the Inspecting Judge or Magistrate may take assistance of an employee preferably not his Administrative Officer, but an intelligent and less senior Assistant from any office at the headquarters or from the offices under inspection, for the purpose of collecting materials from the Registers, Account Books, etc., which should be verified by such Inspecting Judge or Magistrate himself before drawing up his inspection notes. A different Assistant should be employed each time and such Assistant should not be sent in advance. If the head of any Assistant has to be taken, it should be confined within clearly defined limits, e.g. checking totals, stocks, details of clerical work, and should be restricted only to office work done by Assistants of the establishment. He must not look into the diary, order-sheet, records of eases etc., nor must he offer any remark connected with judicial work, Judicial procedure or judicial administration. The name and designation of the Assistant whose help is taken should always be stated in the letter sent with the inspection report.

Note. If any seeming defects or irregularities are noticed in the course of inspection, the officer concerned shall be given an opportunity to explain the same on the spot.

Rule 469. A copy of the notes of inspection shall, as soon as possible after the inspection, be sent to the Presiding Officer of the Court concerned or the Judge-in-Charge of the concerned department for his information, compliance and guidance with such instructions within the scope of his authority as the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, may think fit to give.

Note. When a Judicial Officer has left the station before or after the inspection and defects or irregularities are found in his work, a copy or extracts from so much of the inspection report as concern him should be forwarded, to him wherever he may be.

Rule 470. (1) If the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, has the occasion to make unfavourable comments on the work of any Officer, the name of that officer, who is found responsible for the defects or irregularities, should invariably be mentioned in the inspection report.

(2) If there is, in the notes of inspection, any comment on some irregularities or defects on which the officer concerned desires to offer any explanation, he should send it to the Inspecting Judge or Magistrate who shall forward it to the High Court Division with his remarks thereon.

Rule 471. (1) To facilitate inspection and to save time, a Form No. (M) 31 has been prescribed for the inspection of the subordinate Courts and the inspection notes should as far as possible be in accordance with the printed Form. Answers to the questions are to be recorded on the space provided on the right side of the Form. As to the manner in which the judicial work is performed, the notes should deal comprehensively with irregularities or defects observed in reference to the relevant questions in the Form. It is not necessary to enter in the inspection notes every mistake found, though such mistake should be intimated to the Presiding Officer of the Court or the Judge-in-Charge of the department inspected, as the case may be.

(2) The list of questions is not intended to be exhaustive or to restrict the inspection to those points only which it contains. If in his opinion, any department or branch of work demands detailed examination involving close attention and strict scrutiny, the Inspecting Judge or Magistrate should append a separate report regarding it. The result of the examination of records should be detailed on separate sheets of paper.

(3) In addition to the report in Form No. (M) 31 or (M) 42, as the case may be the said Inspecting Judge or Magistrate on the completion of an inspection should submit an extract from the report indicating the defects found, in Form No. (M) 43. After consideration of the report by the High Court Division, the comments, suggestions and orders thereof will be entered in appropriate column and the Form returned to the Sessions Judge, Metropolitan Session Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be. He will then report to the High Court Division in brief the actions taken. The Form will then be sent

by the Sessions Judge, Metropolitan Session Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, to the Court concerned with the departments attached thereto or to the Record Room, as the case may be.

Rule 472. Every Court subordinate to the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate and Chief Metropolitan Magistrate and the Record Room shall maintain a guard file which shall contain the defect-extracts referred to in clause (3) of the last preceding rule and all inspection and audit reports, together with connected correspondence shall show the action taken to remedy the or irregularities that have been noticed in such reports. Every guard-file shall have an index in Form No. (M) 33. An Inspecting Judge may call for the file and see what action has been or is being taken in regard to these defects or irregularities and note any undue delay or omission in this respect.

Note. Defect-extracts should be taken off the guard file for destruction after 3 years from the date of the last order therein and a corresponding note made in the index. Similar note should also be made in the index when inspection and audit reports are removed for destruction. If one guard file is found inconvenient for reasons of bulkiness, additional files may be opened and maintained in the prescribed manner.

Rule 473. (1) Every Additional Sessions Judge, Joint Sessions Judge, Additional Chief Judicial Magistrate. Additional Chief Metropolitan Magistrate, Judicial Magistrate and Metropolitan Magistrate should inspect once a year the office attached to his Court and any other department of which he is in charge. A report of such inspection should be submitted to the Judge or Magistrate to whom he is subordinate who should deal finally

if any points that may arise, unless their nature and importance is such that in his opinion, they should be referred to the High Court Division. An intimation shall, however, be sent to the High Court' Division by the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, to the effect that the report of inspection of a Presiding Officer has been received by him and that proper instructions have been given by him on any defect or irregularities noticed.

(2) Every such Judge or Magistrate should inspect his own office immediately after taking over charge in order that he may be in a position to discover any defect which may exist and take immediate steps for its removal.

Rule 474. At the time of his inspection, the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, should refer to the latest inspection note by the officer concerned of his own Court and report whether he failed to detect errors and omissions in procedure which the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, detected and which the officer could, with reasonable care, have detected and rectified in advance.

Rule 475. Every Sessions Judge, Metropolitan Session Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be should inspect the office of his own Court once a year or if it is not possible, an inspection shall be made by a Judge or Magistrate deputed by the concerned the Sessions Judge, Metropolitan Sessions Judge, Chief

Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be. Such inspection must, however, be made at least once in every two years, The Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, should deal finally with any points that arise, unless their nature and importance is such that in his opinion, they should be referred to the High Court Division and in such case, a copy of the inspection report should be sent thereto.

Note. This rules shall apply, mutatis mutandis, to special Judges, Tribunal Judges and other Judges of the rank and status of the Sessions Judge.

Rule 476. (1) The concerned Sessions Judges are authorized and expected to inspect the Courts of both Judicial and Executive Magistrates functioning within their jurisdictions and inspection of these Courts should be of a general character and directed rather to both judicial matters and Court administration. It is desirable that the Sessions Judges should inspect the Courts of Magistrates at least once a year and send a copy of the report to the High Court Division.

(2) The Sessions Judge may sit with the Magistrates concerned, advise them in matters of procedure, and consider their ability in conducting the proceedings before them. He should also examine some of their records and scrutinize the orders passed by them at various stages of trial, e.g., taking of cognizance, framing of charges, orders admitting to bail, issuance of processes including summonses and warrants, examination of witnesses and recording of evidence, adjournments, writing of judgments etc.

(3) During inspection, the Sessions Judge's attention is to be focused on the matter relating to the maintenance of the Registers, realization of fines, accounts, supply of copies and other administrative functions of the Magistrates.

(4) It is to be understood that the Sessions Judges should not be permitted to prejudice the proper discharge of their Judicial functions which are more important duties, and inspection of the above nature should, therefore, be carried out only when the Sessions Judges can find time for them without detriment to their own work.

(5) No detailed report of an inspection need be submitted to the High Court Division, it will suffice if the mere fact of inspection is reported, unless the Sessions Judge's visit has disclosed any matter of grave importance. An inspection should, if possible, take the form suggested in sub-rules (1) and (2) of this rule; but the Sessions Judge shall attach greater importance to the supervision of a Magistrate's actual judicial performance in the Court than to an examination of his records, the reason being that some are likely to come up before the Sessions Judge on appeal.

(6) It is desirable that every Sessions Judge should inspect the office of his own Court once a year, or, if this be not possible, an inspection may be ordered to be made by some other judicial officer of the station. An inspection by the Sessions Judge must, however, be made at least once in every two years. The Sessions Judge should deal finally with any points that may arise, unless their nature and importance is such that in his opinion they should be referred to the High Court Division.

(7) A copy of the notes of inspection of the Courts of Executive Magistrates held by the Sessions Judge shall, as soon as possible after the inspection, be sent to the High Court Division under intimation to the District Magistrate concerned.

Rule 477. The High Court Division may send instructions for the removal of any defects found on inspection under rule 476 and the Judge or Magistrate concerned shall comply with such instructions and send report of such compliance to the High Court Division through the Sessions Judge or District Magistrate, as the case may be.

Rule 478. As the quantity of work done cannot fairly be judged by figures alone, a Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate, Chief Metropolitan Magistrate or District Magistrate, as the case may be, when inspecting a subordinate Court, should consider whether the outturn of work of the Presiding Officer has been sufficient having regard to the character of litigation, the state of the file he has had to deal with and other factors that may be present. Mere numerical disposal of an officer is not by itself a true indication of the amount of time and energy spent on it. The real significance of the quantity or the want of it is to be seen by submitting the work performed to a detailed examination, e.g., Inspecting Judge or Magistrate may take a few days from the diary at random and to go through in detail with reference to the records of every case or proceeding entered for those days all the work that was done. This should invariably show how an officer spends his time and in what manner business is conducted.

Rule 479. (1) The Record Room should be thoroughly inspected at least once a year by the Sessions Judge, Metropolitan Sessions Judge Chief

Judicial Magistrate. Chief Metropolitan Magistrate or District Magistrate, as the case may be, himself, or if he is unable to do so for any reason which should be explained, by such Judge or Magistrate other than the Judge-in-Charge of the Record Room as he may depute for the purpose. An inspection by the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate, Chief Metropolitan Magistrate or District Magistrate, as the case may be, personally must, however, be made at least once in two years. A copy of the report of each inspection accompanied by a statement in Form No. (M) 43 should be sent to the High Court Division as early as possible.

(2) The Judge or Magistrate inspecting the Record Room should call for the inspection guard file to see what action has been or being taken on previous inspection, and to note any undue delay or omission in this respect.

(3) To facilitate inspection, the Form No. (M) 42 has been prescribed. The list of questions in this form is by no means exhaustive of the many matters as to which the Inspecting Judge or Magistrate may usefully inquire. If any particular matter or branch of work requires detailed examination, the Inspecting Judge or Magistrate should inspect it as fully as possible and append a separate report.

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

2. Judicial Conference

Rule 480. The Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, should convene a judicial conference at the headquarters of all Judicial Officers of the district four times each year. In such conference, the

president and Secretary of the local Bar Association and Public prosecutor/Law officer may also be invited. Each conference should not last longer than one day and should ordinarily be held during holiday(s). Such a conference should afford special facilities to the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, for securing a personal knowledge of the officers under him and addressing their doubts and difficulties through discussion. A Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, can make such a conference a forum for discussing the affairs of each Court with the Judge concerned, for examining the state of his files and for ascertaining the progress of his work, his need for assistance and allied matters. To facilitate consultation, each Judge should bring with him and lay before the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, a report of inspection of his office and the departments in his charge unless an inspection has already been held by him within the preceding twelve months. A copy of the Conference Report should be sent to the High Court Division.

Rule 481. At the instance of the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, there shall be a Police Magistracy Conference once a month to be attended by the District Magistrate and the Superintendent of Police or the Police Commissioner or their representatives. The Conference shall also be attended by all the Judicial Magistrates, Officers-in-Charge of the Police Stations concerned, Police Officers/Law Officers representing prosecution and other concerned officials. The Conference shall deal with the following matters:

(a) removal of bottle-necks, if any, in the service and execution of pending processes;

(b) ensuring the attendance of witnesses in Courts;

(c) security of witnesses while coming to and returning from the Courts;

(d) removal of snags in inquiries and investigations;

(e) timely production of under-trial prisoners in Courts from Jail Custody;

(f) expeditious service of writs of proclamations and attachments:

(g) security measures in Court-premises, security for the Judicial Magistrates and other concerned officials;

(h) timely production of Alamats from Malkhana;

(i) co-ordination and co-operation between the Police and the Magistracy in the matter of smooth dispensation of criminal justice;

(j) measures to be taken for prompt disposal of cases; and

(k) any other matter of importance.

Rule 482. The Sessions Judges or the Metropolitan Sessions Judges, as the case may be, may also convene such conference half-yearly to be attended by the concerned District Magistrate, Police Commissioner/ Superintendent of Police, Civil Surgeon, Executive Engineer (PWD), Public Prosecutor, President/Secretary of the Advocates' Bar Association and all concerned including Judges and Judicial Magistrates serving in that station.

Note. To meet the expenses for arranging such conferences, the Sessions Judges or Chief Judicial Magistrates or Chief Metropolitan Magistrates may request the Government to make adequate budget allocation at their disposal.

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

CHAPTER XXIX

DRESS, JUDICIAL OFFICER'S PRESIDENCE, LEAVE, ETC.

1. Dress of Judicial Officers

Rule 483. While presiding over the Court, all male Judicial Officers shall wear the following dress:

(i) a King's counsel's gown of any black cloth;

(ii) stand up, winged white collar and bands:

(iii) a black coat of any pattern or black chapkan or achkan; and

(iv) if the coat is left unbuttoned, a black waist coat.

(v) white or any light coloured trousers and shirts

Rule 484. The lady Judicial Officers, while presiding over the Court, shall wear the following dress:

(i) a king's counsel's gown of any black cloth;

(ii) stand up, winged white collar and bands.; and

(iii) white or light coloured Sari or Salwar Kamiz

(iv) a black coat of any pattern.

Rule 485. The wearing of the full robes is compulsory for all Judicial Officers and no deviation of the rule will be allowed.

Rule 486. The Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, should at the time of inspection or on other occasions ascertain whether Judicial Officers sit daily correctly robed.

2. Dress of Advocates

Rule 487. Advocates of the Supreme Court shall, when appearing in any Court of Session. Tribunal or any Court of Judicial Magistrate, wear the same gown as in the Supreme Court.

Rule 488. All male Advocates, appearing before the Subordinate Courts, shall wear the following as part of their respective dress: -

(i) Black buttoned coat or black chapkan, achkan or sherwani with black half-sleeved gown and band, or
(ii) black open breast coat, white shirt, stand-up winged white collar, stiff or soft, with a black gown and band.
(iii) In either case, long trousers (white, black or black-striped or grey) shall be worn.
(iv) if European dress is worn, then a black coat with dark or white trousers and a black or dark coloured plain tie and the gown.

Rule 489. All lady Advocates, appearing before the Subordinate Courts, shall wear the following as part of their respective dress: -

Black full sleeved jacket or blouse, stand-up winged white collar, stiff or soft, with a black gown and band, Sari or Salwar Kamiz (white or black) shall be worn.

Note. The wearing of the prescribed dress is compulsory for all Advocates.

3. Residence of Judicial Officers

Rule 490. No Judicial Officer shall be permitted to reside elsewhere than at the head-quarters of the station to which he is for the time being posted, except with the special permission of the High Court Division to be accorded upon consideration of circumstances brought to the notice of the said Division by the Sessions Judge or the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, under whom the officer, whose exemption from the rule is recommended, is serving at the time.

Rule 491. The Presiding Officer or Judge-in-Charge concerned may, in special circumstances, grant permission to an employee to reside elsewhere than at the head-quarters of the station provided that the work which he has to do does not in any way suffer. In granting such permission regard should be had to the nature of his duties and the department in which he is serving.

Rule 492. When there is relinquishment of charge by any Judicial Officer in occupation of a Government accommodation, the fact of handing over vacant possession of his residence shall be promptly reported to the concerned local authority.

4. Witnesses Appearing in Uniform

Rule 493. As regards paying of compliment to Court by a police officer, who is required to depose in a case, on entering the Court room or

on going into the witness box, attention is invited to the following rule which on approval by the High Court Division, has been inserted in the Bengal Police Regulations, Volume I:

“A police officer in uniform on entering a Court shall salute the presiding Officer with his head dress on, in the approved manner. He will remove his head dress (provided it is a head dress other than a pagri) while giving evidence and replace it before saluting the Court on retiring (Rule No. 764A)."

Note. Fire-arms shall under no circumstances be taken into the Court-room

Rule 494. Military Officers and Soldiers appearing before the Criminal Courts (other than the Courts established under the Military Law) in their official capacity shall appear in uniform strictly following the instructions applicable to them under their respective departmental rules.

Note. Under any circumstances, the Military Officers and Soldiers shall not be allowed to carry fire-arms inside any Court-room.

5. Leave

Rule 495. Grant of casual leave to the Judicial Officers of the Criminal Courts shall be guided by the circulars and orders time to time issued by the High Court Division. The casual leave shall not be combined with vacation

Rule 496. (1) The Sessions Judge, Metropolitan Sessions Judge, Special Judge and Judge of a Tribunal in the rank of a Sessions Judge may enjoy their casual leave after informing the Registrar of the High Court

Division about the arrangements made by them for performing the judicial works during the period of such leave.

(2) The Sessions Judge shall grant casual leave of the Additional Sessions Judge, Chief Judicial Magistrate and Joint Sessions Judge

(3) The Metropolitan Sessions Judge shall grant casual leave of the Metropolitan Additional Sessions Judge, Chief Metropolitan Magistrate and Metropolitan Joint Sessions Judge.

(4) The Chief Judicial Magistrate and Chief Metropolitan Magistrate shall apply for casual leave to the Sessions Judge and Metropolitan Sessions Judge respectively, and at the time of making such application. he will suggest the work arrangement during absence.

(5) The Chief Judicial Magistrate shall grant casual leave to the Judicial Magistrates including Additional Chief Judicial Magistrate, and the Chief Metropolitan Magistrate shall grant casual leave to the Metropolitan Magistrates including Additional Chief Metropolitan Magistrate

Rule 497. (1) The Sessions Judge, Metropolitan Sessions Judge, Special Judge and Judge of a Tribunal in the rank of a Sessions Judge, shall apply for earned leave to the Government through the Registrar of the High Court Division.

(2) The Additional Sessions Judge, Chief Judicial Magistrate and Joint Sessions Judge shall apply for earned leave to the Government through the Sessions Judge and the Registrar of the High Court Division.

(3) The Metropolitan Additional Sessions Judge, Chief Metropolitan Magistrate and Metropolitan Joint Sessions Judge shall apply for earned leave to the Government through the Metropolitan Sessions Judge and the Registrar of the High Court Division.

(4) The Additional Chief Judicial Magistrate and other Judicial Magistrates shall apply for earned leave to the Government through the Chief Judicial Magistrate and the Registrar of the High Court Division.

(5) The Additional Chief Metropolitan Magistrate and other Metropolitan Magistrates shall apply for earned leave to the Government through the Chief Metropolitan Magistrate and the Registrar of the High Court Division.

(6) The Government shall take decision on the application of earned leave in consultation with the Supreme Court.

Rule 498. When earned leave is required by any Judicial Officer on an emergency, he shall at the first instance move the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, if necessary through post or fax or e-mail and the latter shall forward the same with his opinion to the High Court Division by special arrangement.

Rule 499. When an officer who has been allowed earned leave desires to cancel the whole or any portion of it, he may resume his duties with an intimation in writing to the High Court Division and the Government through proper channel.

Rule 500. (1) The Sessions Judge, Metropolitan Sessions Judge, Special Judge and Judge of a Tribunal in the rank of a Sessions Judge may leave the station intimating in writing to the Registrar of the High Court Division

(2) The Additional Sessions Judge, Chief Judicial Magistrate and Joint Sessions Judge may leave the station with prior permission of the Sessions Judge.

(3) The Metropolitan Additional Sessions Judge, Chief Metropolitan Magistrate and Metropolitan Joint Sessions Judge may leave the station with prior permission of the Metropolitan Sessions Judge.

(4) All other Judicial Magistrates including Additional Chief Judicial Magistrates and Metropolitan Magistrates including Additional Chief Metropolitan Magistrates may leave the station with the prior permission of the Chief Judicial Magistrate and Chief Metropolitan Magistrate respectively.

Rule 501. All Judicial Officers about to proceed on vacation or leave of any description shall, before they leave their stations, furnish the Sessions Judge, Metropolitan Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, with their respective addresses while on vacation or leave.

CHAPTER XXX

ACCOUNT RULES

1. General

Rule 502. (1) The rules in this Chapter which prescribe the procedure for the receipt and payment of money and for keeping accounts shall be

observed by the Judicial Officers of the Criminal Courts exercising Judicial powers and dealing with money in the capacity.

(2) The rules in this Chapter shall apply to the Courts of all Sessions Judges, Special Judges, Tribunal Judges, Judicial Magistrates, Metropolitan Magistrate and other Magistrate, subject to such modification as may be made by the Supreme Court with the previous sanction of the Government.

Rule 503. In the Chapter, unless the context otherwise requires: -

(a) 'Chief Judicial Magistrate' means the Principal Officer of the Magistracy in a district and 'Chief Metropolitan Magistrate' means the Principal Officer of the Magistracy in a Metropolitan area, whose accounts are rendered to the Audit and Accounts Department of the Government for their own Courts and Subordinate Courts.

(b) 'Sessions Judge' means the Principal Officer of a sessions Division or a Metropolitan Sessions Division.

(c) 'Judicial Magistrate' and 'Metropolitan Magistrate' mean the officers, whose accounts are rendered to the local Audit and Accounts Department and also to the Chief Judicial Magistrate and the Chief Metropolitan Magistrate respectively, for their own Courts:

(d) "District Magistrate" means the Principal Officer of the Executive Magistracy in a district, whose accounts are rendered to the Audit and Accounts Department of the Government for his exercising judicial power and dealing with money in that capacity and his subordinate Executive Magistrate.

(e) "Magistrate" includes both Judicial and Executive Magistrate and any other person exercising Magisterial power under any

law for time being in force.

(f) "The Judge-in-Charge" means the Judicial Officer selected by the Sessions Judge or Chief Judicial Magistrate or Chief Metropolitan Magistrate or District Magistrate, as the case may be, to act on his behalf as an 0fficer entrusted with the power to control and supervise the functions of the Accounts Department of the Courts;

(g) 'Day' means the period of the day up to 3 p.m. and the next day means the period extending from 3 p.m. of a day up to 9 p.m. of the following calendar day;

Note. I. Between 9 a.m. and 3 p.m. the accounts shall be made up and no transaction shall take place in the courts beyond that time. If under any special circumstances, any transaction has to be allowed after 3 p.m., the same must be forthwith entered in the Court's accounts bearing date which falls on the next open day;

(h) 'Month' shall be deemed to mean closer of the last accounts day of the month up to 3 p.m. at the Metropolitan or district headquarters and up to 3 p.m. of the day of which the accounts of the Treasury are finally closed for the month at the outlying stations;

(i) 'Year' means the period beginning of the first day of July of a calendar year and closing on the 30th day of June of the following year.

Rule 504. The Sessions Judge or Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, may delegate his powers to

any of his subordinate as regards accounts subject to relevant laws and rules for the time being in force.

Rule 505. (1) Erasures and over-writings in any account, register, cash book etc., are absolutely forbidden and in any correction be necessary, the incorrect entry shall be cancelled neatly in red ink and the correct entry shall be inserted, and if any such correction or alteration be made, the same shall be authenticated by the concerned Officer-in-Charge of the department.

(2) Account Books shall be kept in bound volumes paginated throughout the same, the total number of which being certified on the cover by the Accountant and attested by the dated initials of the Judge-in-Charge before they are brought into use.

2. Heads of Accounts

Rule 506. The following are the heads of accounts under which the money received and paid under the orders of the Judges and the Magistrate are classified: -

(a) Criminal deposits including compensation and costs in criminal cases are paid on the spot in open Court;
(b) Fines (Judicial) and the refund of the same:
(c) Stamp duty (Judicial or Non-Judicial) and penalties realized in Court;
(d) Value of unclaimed property credited to the Governments;
(e) Other general fees and forfeitures i.e. general forfeitures and forfeitures of earnest money of defaulting bidders;
(f) Record-room and Copying Department receipts i.e. searching

fees, copying fees, comparing fees and other similar fees;

Note. When receipts under these heads are realized in stamps they need not be entered in accounts as cash or receipts.

(g) Miscellaneous receipts i.e. other items;

Note. Details of amounts credited as 'other items' should invariable be furnished to the concerned Audit and Accounts Officer or the Treasury Officer, as the case may be.

(h) Peremptory receipts i.e. witnesses' expenses, prisoners' diet money and other peremptory receipts.

Note 1. (a) and (b) deposits should be credited against the Public Accounts Receipt Code No. 6-2108-0000-8351. When the highest Court confirms the decision of the Court below, in that case the said deposit should be transferred to consolidated Fund Receipt Code No. 1-2081-0000-1901.

Note 2. For Judicial or Non-judicial stamps and all other (e) deposits should be credited against the Public Accounts Fund Receipt Code No. 6-2104-0000-8351. However, when the highest Court confirms the decision of the Court below, the amounts initially credited against the aforesaid Public Accounts Code should be transferred to the consolidated Fund Receipt No. 1-2108-0000-2317 (for Judicial stamps) and consolidated Fund Receipt No. 1-1101-0020-1301 (for Non-judicial stamps) and all other (e) deposits as referred above should be transferred to Consolidated Fund Code No. 1-2108-0000-1901.

Note 3 (d) deposits should initially be credited against the Public Accounts Fund Receipt Code No. 6-2108-0000-8351. If nobody claims the property within the prescribed period, the said deposit would then be transferred to consolidated Fund Code No. 1-2108-0000-1911.

Note 4. For other general fees, etc., under (e) deposit should be credited against the Public Accounts Fund Receipt Code No. 6-2108-0000-8351 and after confirming the decision of the Court below, the said deposit would be transferred to consolidated Fund Code No. 1-2108-0000-1911.

Note 5. The money realized under the head of (g) deposit and the money realized as peremptory receipts under the head of (h) deposit should be credited against the Public Accounts Receipt Code No. 6-2108-0000-8351. If the deposit need not be refunded, it would then be transferred to consolidated Fund Receipt Code No. 1-2108-0000-2681.

Note 7. All deposits against the Public Accounts Receipt Code No. 6-2108-0000-8351 shall be refunded from Public Accounts Expenditure Code No. 7-2108-0000-9351.

Note 8. The peremptory cash books is not required to be maintained by the Magistrate, any such receipts must be entered in the Case Book.

Note 9. For payment of sums received under head (h), see rule 519.

Note 10. All sums realized for the services of a finger/foot-print expert under rule 319 shall be credited to the Government (under the head and deposit) against Consolidated Fund Receipt Code No. 1-2211-0000-2017 as Examination Fees.

Rule 507. The classification mentioned in rule 506 applies to the money received by an officer in his Judicial capacity and they do not apply to money received by way of permanent advance, or upon establishment or contingent bills.

Note. In dealing with all Government receipts and with money received by way of permanent advance or upon establishment and contingent bills, a Judicial Officer should be guided by the relevant

Treasury and Subsidiary Rules and General Financial Rules framed time to time by the Government.

Rule 508. Cashier or any other employee authorized to make disbursement on passed vouchers should make no payment without a proper pay order of the responsible disbursing officer specifying the amount payable both in words and figures recorded clearly in ink on the bill or other vouchers, and no payment shall be made on a voucher or order unless it is signed by the concerned disbursing officer in his own hand.

Rule 509. (1) Where the Court sanctions the payment of money by one person to another and both are present in Court, the money, if paid on the spot, shall be passed directly from one to another, the fact being noted in the record of the case.

(2) When money is paid directly from one person to another under sub-rule (1), no officer of the Court shall become in any way responsible for the said money and such a transaction shall not appear in the Courts account.

Note Advantage of this rule may be taken in cases where costs of the day are allowed by the Court or where compensation is awarded to accused persons or when sums in excess of those paid into Court are to be paid to the witnesses or costs to be paid to the complainants in criminal cases.

Rule 510. Judicial Officers shall, as far as possible, in their transaction with the public, avoid direct receipt and payment of money under head (a) of rule 506.

Provided that the cash shall be received in the following case, namely:

When any sum is tendered in payment of criminal fines including compensation under section 250 or section 546A or section 545 of the Code or section 22 of the Cattle Trespass Act, 1871.

Note. At outlying stations, cash transactions under head (a) rule 506 are allowed and money should, however, be received in cash only when having regard to the balance in hand (which should not ordinarily except Tk. 5,000/-) if this can be done conveniently.

Rule 511. (1) Money under heads (b) to (h) of rule 506 shall ordinarily be received in cash in all Courts.

(2) As explained in the notes to rule 538, repayments under heads (b) to (g) should ordinarily be made only through the Treasury.

(3) Under head (h) of rule 506, payment will ordinarily be made in cash by the Cashier on his own responsibility.

3. Receipt of Money

Rule 512. Payment of sums falling under heads (a) and (c) to (e) of rule 506 cannot be accepted either in Court or at the Bank through the Treasury unless the money be tendered with a chalan in triplicate signed by the Bench Assistant o the Court under whose order the money is tendered and also by the Accountant of the Court or when the payment is make by any officer of the Court with the passbook and a chalam in triplicate.

Note. As to receipts under heads (f) to (h) of rule 506, see rules 518 and 519.

Rule 513. (1) Any person desirous of paying money other than the fines in the Court, or in the case of collections made by any Officer of the court, the Officer who has realized the money, shall be furnished free of cost with three Forms of Chlan [Form No.(a) 1] in each of which all particulars required must be entered in Bangla or English.

(2) One of the chalans mentioned in sub-rule (1), hereinafter called the original chalan, shall bear the court fee-stamp (if any) required by law.

Note. In the case of Deposit Chalans, care must be taken to enter fully the nature of the deposit, the number of the case, in any, the name of the person on whose behalf the money is paid and of the person to whom it is to be paid over etc.

Rule 514. (1) The person desirous of paying the money having filled up the Forms of Chalan, shall present them to the Bench Assistant as mentioned in rule 512, who shall in turn place it before the Presiding Officer of the Court.

(2) The Presiding Officer referred to in sub-rule (1) shall then ascertain by a reference to the record of the case or the Register concerned that the amount tendered is correct and is due from the person on whose account it is tendered, to the person to whom it is stated to be payable and after correcting the Forms of Chalan, if necessary, shall sign Part-1 of the same.

(3) If the money is to paid to the Bank, the chalan shall be taken directly from the Bench Assistant of the Court to the Accountant and if the money is to be received by the Cashier, the Bench Assistant shall obtain the order of the Presiding Officer directing the Cashier to receive the amount entered in the chalans.

(4) The chalans shall then be taken with the money to the Cashier, who, on receiving the money, shall enface the chalans with his receipts as prescribed in rule 520 and pass them on to the Accountant of the Court.

(5) The Accountant shall number the chalans and enter them in the Register of Chalans [Form No. (a) 10].

(6) If the amount be a deposit paid into the Court, the Accountant shall enter the transaction in the Register of Deposit Receipts also and fill up Part-II of the Chalans and if the amount be a deposit to be paid into the Bank through the Treasury, he shall obtain the order of the Judge-in-Charge of Accounts directing the Treasury Officer to receive the amount entered in the chalans.

Note. When money is to be paid to the Bank through the Treasury, Column 2 of Part II of the Chalan will be filled up only in duplicate after it is received back from the Bank, under rule 512(3), simultaneously with the posting of the items in the Register of Deposit Receipts.

Registry of Chalans

Rule 515. (1) A separate index number shall be given to each Chalan.

(2) The numbers in a consecutive series shall be entered both in the Chalan and in the Register.

Note. The Accountant shall be careful to enter in the Chalan the particulars of head of accounts under rule 506 to which the v receipt belongs.

Rule 516. (1) The Register and the Chalans shall then be laid before the Judge-in-charge and he shall initial each entry as he passes the Chalans.

(2) If the money be paid to the Bank through the Treasury, there Chalans shall then be returned to the party tendering the money and the same shall be his authority to pay the money to the Bank.

(3) When payment be made either in the Court or in the Bank, in all cases, out of three copies of Chalan, one copy shall be returned to the person tendering the money as his receipt, which may be produced by him in Court when necessary, the second copy of the Chalan shall be filed with the record of the case to which the person paying the money is a party and the third copy shall be sent to the Treasury with the Pass Book.

Rule 517. (1) No person is required to take out a Chalan until he is actually ready to pay the money for which he takes it, but a Chalan once having been taken out must be presented without delay.

(2) In view of the provisions of sub rule (1), the order to the Treasury Officer must be limited in its operation to the day upon which the Chalan is made over to the applicant. However, if the Chalan is taken out after the accounts are closed, then it must be presented on the next open day.

(3) In case of failure to tender the money as the Bank within the time-limit, the Judge-in-Charge may extend the time if the cause shown by a written application is considered sufficient.

Note. When a Chalan is issued on the Treasury for payment to the Bank, it may be acted upon till 3 p.m. of the day following that on which is it issued, if so ordered by the Court. But when the Chalan is for the receipt of money at the Court, it should be restricted in its operation to the day of issue.

Rule 518. (1) Receipts under heads (f) and (g) of rule 506 (Searching, copying or comparing fees, sale proceeds of Forms and other miscellaneous receipts), when payable in cash, shall be tendered in the first place to the Accountant and noted by him in a Register in Form No. (A) 11.

(2) The Accountant shall enter the name of the tendered, the amount to be paid, and the number and date in the foil and counter-foil of the Register, detach the right hand portion and make it over to the tendered for presentation with the money to the Cashier.

Rule 519. Peremptory receipt under head (h) of Rule 506 shall be tendered to the Cashier directly without the intervention of the Accountant.

Receipt of Money by the Cashier

Rule 520. The Cashier, on receiving a Chalan addressed to him under rule 514 or a tender a money under rule 518, shall accept the money and at once enter the amount as a receipt in the Cash Book and sign the Chalan.

Rule 521. (1) When the Chalans have been enfaced by the Cashier with his receipt, one copy shall be returned to the payer by way of a receipt and this receipt shall be produced in Court by the person claiming the money, when it is necessary for him to prove the deposit.

(2) One copy of the Chalan shall be filed with the record of the case to which the person paying the money is a party.

(3) In the same way, on presentation of the chalan (in triplicate) at the Treasury, the Treasury Officer shall sign the Chalans and on payment of the money to the Bank, the payer shall receive as an acknowledgment, one copy out of three Chalans received by the bank.

(4) One copy of the Chalans received by the Treasury Officer from the Bank shall be forwarded to the Judge-in-Charge together with the Advice Lists referred to in rule 555, so that it may be filed with the concerned record in connection with which the deposit was made.

Rule 522. (1) When the money is tendered under rule 519, the Cashier shall enter the amount in bound book of Receipt Form [Form No. (A) 18] numbered in serial order.

(2) Each receipt shall be in duplicate and the office copy shall be prepared simultaneously with the original by means of carbon paper.

(3) The original, which shall bear the same serial number as the carbon copy, shall be torn off along the perforated line and presented to the payer as his voucher.

(4) Each bound book shall contain one hundred Forms and before the books is brought into use, a book number and number of Forms it contains shall be given in hand on the front page of the book and attested with the dated initials of the Judge-in-Charge and this number shall also be noted on every page before the number printed on it by machine.

(5) In case the foils and counter-foils are not used, or are spoiled they shall be cancelled under the dated initials of the Judge-in-Charge.

Note. No copy shall be torn off from the bound book of receipt and the Cashier shall certify if that is done for any reasonable cause.

(6) A separate Stock Book shall be maintained in which the receipts of all bound books from the press and their issues to the Cashier shall be properly accounted for.

Note 1. One book shall be issued to the Cashier at a time who shall grant a receipt for it in the Stock Book.

2. A new book shall be started from the beginning of each financial year, any unused pages of the previous book being marked ‘cancelled’ and signed by the Judge-in-Charge.

(3) The number of Receipt Books in stock shall be verified annually by any authorized Officer.

(4) In case of the Metropolitan Magistrates' court in a Metropolitan area three books may ordinarily be issued to the Cashier at a time and seven books may be issued when there is a rush of petty cases.

Cash Book

Rule 523. Cashier's Cash Book shall be maintained in Form No. (A) 19 and shall exhibit in detail all receipts and repayments under heads (a) to (h) and remittances to the Treasury.

Note 1. Being restricted to transaction in actual cash, the Cash Book is not to show receipt in the form of court-fee stamp or refunds of the value of those stamps which are ordinarily payable at the Treasury.

Note 2. The number of receipt, any refund is made on account of the value of the court-fee stamp out of the cash in the Court, this should be included in the Cash Book like other payments in cash.

Note 3. The number of receipt or Chalan and particulars, such as, from whom received and on what account etc. should be entered in manuscript in the column for 'Particulars of Receipt'. Similarly, the number of vouchers should be entered in manuscript in the column for "particulars of Expenditure."

Rule 524. A Register in Form No. (A) 20 shall be maintained by the Cashier to show serially the amount of money received by him after encashing the bill and cheques from the Treasury.

Account's Duty to Examine Petty Receipts

Rule 525. (1) At the close of each day, the Cashier shall submit to the Accountant his Cash Book and the Accountant shall cheek the entries of receipts under heads (f) and (g) of rule 506 with those of the counter-foils of the Register mentioned in rule 518.

(2) After checking the entries as mentioned in sub-rule (1) the Accountant shall prepare Chalans for the total amount of receipts under each sub-head and enter the same in the Register of Chalans [Form No. (A) 10] as an amount received in Court.

(3) The total amount in the first part of the Register of Chalan must agree with the total of the receipt in the Cash Book under heads (a) to (g).

Note. The Chalan referred to above should be signed by the Cashier.

Rule 526. (1) The Cashier shall strike a balance in his Cash Book which shall be entered both in words and figures.

(2) In order that the Judge-in-Charge may see at a glance a statement of all the money in the Cashier's possession, details of such money shall be entered at the side-space of the balance showing the amounts held on each account and his statement shall ordinarily be in the following form: -

General Cash Balance .... Taka

Peremptory Cash Balance ....

Balance of permanent Advance as per Contingent Register ....

Establishment pay undistributed. ....

Other amounts (which should be explained) ....

Received any amount after 3:00 p.m. ....

Total money in Cashier's custody ....

Note. Postage stamps received by way of remittance should not be mixed up with receipts. As account should be kept separately in the Form of plus and minus memo, the stamps being added as they are received and deducted when they are disposed of and the balance in hand should be entered daily as directed above. At the outlying station, the Cashier should not be allowed to keep any cash beyond Tk. 5,000/-.

4. PAYMENT OF MONEY

Application for Payment

Rule 527. (1) Persons desiring to draw money deposited in Court and payable to them shall submit to the concerned Bench Assistant of the Court under whose order the money was tendered, as application in Form No. (A) 2 and the applicant shall enter in this Form all particulars necessary for the identification of the credit.

(2) Any number of deposits made in the same case may, be withdrawn on a single application, but the number, date and the amount of each deposit must be separately and clearly stated.

(3) Separate application shall be made for deposits in separate cases.

Note 1. Required number of copies of Form No. (A) 2 shall be supplied free of cost to the person desiring to draw money under this rule.

Note 2. If the party entitled to the money does not appear in person, the application must satisfy the Court that he is duly authorized by the instrument in writing to draw the money for the person so entitled.

Note 3. The application must comply strictly with the terms of the order under which the money is claimed.

Note 4. A duplicate copy of the application need not be filed with the record. All that is necessary is that before passing on the application to the Accountant, the Bench Assistant shall note the order for the repayment on the records of the case and take the signature of the Presiding Officer, so that a second claim of the same amount may not be passed.

Note 5. Where any property seized is sold or disposed of, if the application for the refund of the sale proceeds be made within three months from the date of sale and the proceeds are held in deposit, the refund can be conveniently made in Form No.(A) 2, the particulars in Part-I being filed up in the Court. But if the application be made after the proceeds have been transferred to the credit of the Government, the sanction of the Government is required before the refund can be made and the General Form of Receipt should be used for such refund.

Rule 528. (1) The Bench Assistant shall compare the application with the record of the case and carefully test the validity of the claim and if he finds that the name of the payee has been correctly given and there is no objection to the payment of the money on the ground of attachment or otherwise, he shall sign the certificate at the foot of part I of the application.

(2) The application shall then be placed before the Presiding Officer along with the record of the case and he, after any enquiry that may be necessary about the identity of the claim, shall sign the certificate in Part I and hand the certified application then and there over to the claimant or his lawyer for presentation to the Accountant.

(3) A note of the issue of the payment order shall be made in red ink in the order-sheet of the original case and signed by the Presiding Officer and an endorsement shall be made on the back of the application and signed by the Presiding Officer to the following effect, namely: -

'Certified by me and issued to the applicant, who is identified by Mr. ..... Advocate or to Mr. ..... the applicant's Advocate, who acknowledged his signature on the face thereof. The issue of this payment order has been noted on the order-sheet of case No. .... of the year of .....'

Name and designation.

(4) The Accountant shall compare the contents of the application with the Register of Deposit Receipt and shall satisfy himself that the amount as shown has been received and is still unpaid, and that the name of the claimant corresponds to that of the payee entered in the Register and that no order of the attachment of the money is in force.

Note. If the deposit has been transferred to the Clearance Register (rules 569 and 570) such Register shall be deemed to the Register of Deposit Receipts within the meaning of this rule and rules 533 to 535.

Rule 529. (1) If the record of the case has been despatched to the Record Room, the Presiding Officer of the Court, to which the application is made, shall forward it to the Record Keeper, who will certify under counter-signature of the Judge-in-Charge of the Record Room that a specified sum of money is due to the application and that an order of attachment of the money has been recorded under rule 531.

(2) On receipt of the certificate under sub-rule (1), the Bench Assistant of the Court concerned, if he finds that there is no objection to the payment of the money, shall sign the certificate as the foot of Part-I of the application and then lay it before the Presiding Officer, who shall deal therewith in the manner prescribed rule 528.

Note 1. The application with the certificate shall sent back by the Record Keeper to the Court from which it was received without undue delay and in any case not later than a week from the date of its receipt. It shall be particularly impressed upon the Record Keeper and his staff that the application must not be returned without the certificate on frivolous or flimsy grounds. If the particulars given are sufficient to identify a record or if there are means of finding out the record, it must be traced out, even though the description given by the applicant may in some respects be found inaccurate. It an application is so defective that is cannot be dealt with under this rule, it shall be promptly returned with a note specifying definite information regarding the particular defect.

Note 2. The Record Keeper shall enter in the order-sheet of the record of the case a note that payment order has been issued, so that a second claim for the same amount may not be passed. This note should be signed by the Record Keeper and also by the Judge-in-Charge of Record Room.

Note 3. If the amount certified by the Record Keeper does not agree with the amount stated in the application, the Bench Assistant of the Court concerned shall give an opportunity to the applicant, is satisfied with his identify, to submit an amended application on which the payment order may be issued.

Rule 530. Where the record connected with an application of payment order has been destroyed under the rules, the Court may, in order to satisfy itself that the amount is due, require the application to file an affidavit in support of his application. In considering such application, the Judge-in-Charge shall verify the entries made in the concerned Registers and collect a report from the concerned Treasury regarding the fact of deposit.

Rule 531. (1) An order of attachment passed by any Court on the money in deposit in a case in the same Court or in another Court, shall, on communication, be forthwith recorded in the order-sheet of the case or proceeding concerned under the signature of the Presiding Officer or the Court and also against the corresponding entry in the Register of Deposit Receipts under the signature of the Judge-in-Charge.

(2) If the record of the case has been despatched to the Record-Room, intimation of the attachment shall be forthwith sent to the Judge-in-Charge of the Record Room, who shall thereupon cause such information to be noted in the order-sheet of the case under the signature of the Record Keeper and under the counter-signature of the Judge-in-Charge of the Record Room.

Note. If intimation is subsequently on the withdrawal of the attachment, the same procedure should be followed in recording the fact in the order-sheet of the case concerned and the Register of Deposit Receipts.

Rule 532. If the application for payment is found to be incorrect or defective, the Accountant shall note the error of defect and return it to the applicant for correction by him or for reference by him to the Court.

Payment orders and Registry

Rule 533. (1) If the application is found to be correct, and the deposit has not lapsed, the Accountant shall fill up the second part of the application Form, post the transaction in the Register of Payment Orders [Form No. (A) 12.], with proper index number and make the requisite entry in the Register of Deposit Receipts.

(2) After steps have been taken by the Accountant under sub-rule (1), the application with the Register of Payment Orders and the Register of Deposit Receipts shall be laid before the Judge-in-Charge of Accounts.

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

Approval by the Judge-in-Charge

Rule 534. (1) Before passing the application for payment, the Judge-in-Charge shall satisfy in the first instance that the requirements of rule 528 have been complied with.

(2) The Judge-in-Charge shall further satisfy himself by personal inspection of the Register of Deposit Receipts that the balance in credit of the particular deposit is sufficient to meet the repayment and that no order for the attachment of the money has been noted.

(3) If the result of the scrutiny of the Judge-in-Charge under sub-rules (1) and (2) is satisfactory, he may sign the order for payment of the amount either from the Treasury or from the Court and shall attest with his initials the note of the order of repayment made in the Register of Deposit Receipts.

(4) After steps have been taken under sub-rules (3), the Judge-in-Charge shall initial the entries in the Register of Payment Orders [Form

No. (A) 12] and the payment order shall then be made over to the applicant, after obtaining his dated signature in the remarks column of the Register of Payment Orders for presentation to the Cashier or to the Treasury Officer, as the case may be, for necessary payment.

Note. When signing payment orders, the Judge-in-Charge shall see that undue delay has not been made by the Bench Assistant or the Accountant in dealing with the application or that preference has not been given to applicants of later dates ignoring the chronological order of applications.

Rule 535. (1) (a) When the money sought to be withdrawn is in deposit not in the Court to which the application is made, but in another Court, as for example, where two or more Courts at one station are combined for the purpose of accounts, in every such case the duty of the Court to which the application is made shall be merely to receive such application and forward it to the Court which holds the deposit for examining the record of the case and furnishing a certificate as required in rule 528 that the applicant is the proper party to receive payment of the amount claimed.

(b) If in any particular case, the amount has been transferred from the credit of the original payee to that of the claimant, this fact should also be stated.

(2) The certificate referred to in sub-rule (1) shall be compared with the Register of Deposit Receipts in the office of the Judge-in-Charge to ascertain if there is any bar to the payment.

(3) If no bar is found by the Judge-in-Charge to the making of the payment, he may issue the payment order and the fact of its issue shall be communicated to the Court upon whose certificate the application was

passed in order to enable it to enter satisfaction for the amount upon the record of the case.

Note. The certificate referred to in this rule should be given on the payment order, that is to say, in the tripartite Form No. (A) 2 at the foot of Part-I in the place intended for it and in recording payments in the Register of Repayment, particulars shall be entered as to the Court under whose orders the payment have been made.

Lapse if Payment Order

Rule 536. (1) (a) An order for payment from the local treasury is valid for 10 days only and may not be cashed after the expiry of 10 days subsequent to the date of payment order.

(b) A payment order which has not been cashed and paid within 10 days as aforesaid may be presented to the Court which issued it and such Court may re-enface thereupon a new payment order which shall remain valid for next 10 days after the date thereof.

(c) When the last date of the period of 10 days, referred to in clauses (a) and (b), is a day on which the Treasury or the Bank is closed, the payment order may be cashed or paid on the day on which such Treasury or Bank re-opens.

(2) An order for payment of money in the Court shall be restricted in its operation only to the day fixed by the Court.

(3) All orders of payment under sub-rule (1) and (2) shall be included in an 'Advice List' in Form No. (A) 6 to be issued by the Court making the order to the local Treasury where the cheque is to be paid and the certificate for refund of the value of the court-fee stamps shall also be entered in this list (vide rule 539).

(4) (a) Every order for payment issued on or before the 30th day of June in each year (on which date, the Treasury accounts are closed) shall lapse absolutely and Treasury Officer shall not cash after the 30th day of June, any payment orders issued on or before that day.

(b) A payment order which has lapsed under clause (a) cannot be renewed, but a new order may be obtained upon returning the old order and making a fresh application under rule 527.

Note. The Presiding Judge or the Magistrate should caution the persons who applied for payment orders at the end of June about the effect of this rule and tell them to wait till the July next unless they are badly in need of the cash.

(5) Immediately after the 30th day of June in any calendar year, the Judge-in-Charge shall ascertain what payment orders issued on or before that date are encashed and shall mark them off under his initials in-

(i) the Register of Payment Orders, and

(ii) the Register of Deposit Receipts.

Rule 537. When an application is made to draw money in credit under a deposit which is lapsed under rule 571, but the payment of which is otherwise unobjectionable, the Accountant shall prepare a special Form of Application [Form No. (A) 3], which shall be passed by the Judge-in-Charge after proper examination prescribed in rule 534 and shall be dealt with under rule 574.

Rule 538. (1)(a) When an application is made for the refund of a fine or miscellaneous receipts [heads (b) to (g) of rule 506] payment order shall be prepared by the Accountant in Form No. (A) 4 after checking the application by a reference to the Register or Miscellaneous Receipt Register and the Judge-in-Charge at the time of passing refund order, shall note the repayment against the entry of the receipt in such Registers.

(b) Besides the noting made under clause (a), the payment order shall also be noted in the Register of Payment Orders [Form No. (A) 12] and initialed by the Judge-in-Charge.

(2) (a) When an Appellate Court orders a fine to be refunded, it shall be the duty of the Court, which imposed a fine immediately on receipt of the Appellate Court's order for the refund, to prepare a payment order on the Treasury, if the fine has been levied, attaching a copy of the Appellate Court's order thereto, and deliver it to the payee, whether he applies for it or not with instructions to duly acknowledge the receipt of the bill and present it for the payment at the Treasury.

(b) In a case referred to in clause (a), no written application shall be required from the payee and if such an application be made, it shall be exempted from stamp duty subject to any order or notification of the Government passed in this regard.

(3) The procedure regarding the refund of fine as provided in sub-rule (2) shall also be followed in respect of cases dealt with in revision.

(4) In a case, in which a sentence of fine passed by a Magistrate is confirmed by a Court of Sessions, but set aside by the High Court Division in revision, it shall be the duty of the Sessions Judge to whom the order of

the High Court Division is certified, to apprise immediately the Magistrate concerned of the order of the High Court Division by sending him a certified copy of such order.

Note 1. Except as provided in rule 543, fines can be refunded only through the Treasury.

Note 2. Compensation fines are repaid under the procedure laid down in Rule 527.

Note 3. As regards stamp duty and penalty, while the same may be realized in Court, they can be refunded only by the Collector under the provisions of the Stamp Act, 1899. Form No. (A) 4 should be used for certificate for refund of such amount.

Note 4. Refund under heads (d) to (g) of rule 506 can be made only through the Treasury.

Rule 539. (1) Application for the refund of the value of court-fee stamps shall be made to the Bench Assistant, who shall compare the application with the record, and it he finds that a refund is due, shall draft a certificate of refund on the back of the paper to which the court-fee stamps are affixed.

(2) After the checking of the papers by the Bench Assistant, the same shall be passed on to the Accountant, who shall prepare a certificate in Form No. (A)5 and shall enter the particulars in the Register of Payment Orders [Form No. (a) 12].

(3) The application with order papers and the Register shall then be laid before the Magistrate concerned who, if satisfied that the proceedings are in order, may sign the certificate of refund on the back of the stamped paper and the certificate in Form No. (A) 5 and initial the entry in the

Register and the certificate in Form No.(A) 5 shall then be made over to the applicant for presentation at the Treasury.

(4) If the record has been despatched to the Record Room, the application for refund shall be forwarded by the Presiding Officer to the Judge-in-Charge of the Record Rom and it shall be dealt with by the Record Keeper of the Record Room as if he was the Bench Assistant of the Court concerned.

Note 1. Entries in the Register of Payment Orders [Form No. (A)12] in the case of refunds of the value of the court-fee stamps must be made in red ink.

Note 2. In outlying stations, where there is no Treasury, the certificate granted by the Court in Form No. (A) 5 shall be presented to the Cashier of the Court if the amount for refund does not exceed Tk. 100/- and he cashier shall make the refund in accordance with rules, as the case may be, out of the permanent advance recouping the amount so refunded by presenting a bill to the Treasury accompanied by the certificate granted by the Court and such payment by the Cashier should be shown in the Cash Book (see note 2 to rule 523).

Note 3. When fees realized in court-fee stamps have not been spent, or processes etc. have not been issued, the Court may, on the application of the party concerned, and if it is satisfied that the application may be granted, issue a certificate in Form No. (A) 5 certifying that the party is entitled to a refund of the unspent fee and the party may present the said certificate to the Revenue Authorities in accordance with rules regarding refund of the value of court-fee stamps filed by mistake or inadvertence.

Note 4. Application for the refund of the value of court-fee stamps on account f unspent process-fees etc., need not be stamped.

Note 5. In any exceptional case in which the paper, to which the court-fee stamps have been affixed, has been destroyed under the rules for the destruction of records, the Court concerned should, before issuing a certificate for refund in Form No.(A) 5, satisfy itself that the amount claimed is due and record the proceeding on the application for refund which may be filed.

Note 6. The procedure laid down in this rule is for refund of the value of the court-fee stamps when application for such refund is made to a Court which keeps its own accounts. Where there are two or more Criminal Courts as one station, the Magistrate, in whose Court the combined accounts of all the Courts at the station are kept, should sign the certificate of refund and initial the Register of Payment Orders.

Note 7. A list of the certificates for refund of the value of the court-fee stamps issued under this rule should be prepared in Form No. (a) 6 and promptly sent to the Treasury.

Rule 540. In so far as the account-system is concerned, it is invariable necessary to trace out each item of payment under the Court's orders back to its corresponding item of receipt, in other words, to connect each item of Court's debit in the Treasury with the corresponding item of credit. However, if the said two items of receipts and debit need be separated from each other, the Court must take carte to furnish necessary particulars to the Treasury.

Payments by Cashier

Rule 541. (1) In the case of payment orders directed to the Cashier, the payment must be entered by the Cashier in the Cash Books, the payment order being retained by the Cashier as his voucher.

(2) All repayments form peremptory receipts shall be made by the Cashier only on production of a certificate of the Court, which directed the amount to be received on an application made for the purpose, that the repayment sought should be made to the claimant and this certificate shall be retained by the Cashier as his voucher.

Note. The Cashier should cancel the vouchers as soon as he pays them, by writing on the face ‘’Paid” with his initials.

5. Settlement in Court

Simultaneous Receipt And Payment

Rule 542. (1) When the payer and the payee are both before the Court, the receipt and payment may be made as provided in rule 509 by the money being passed directly between the parties, a note of the transaction being entered in the record of the case.

(2) When transactions are made under sub-rule (1), such transactions shall not appear in the Court’s accounts.

(3) Except as provided in rule 509, payment of compensation to the complainant shall not be made under this rule and such transaction shall pass through the books as provided in rule 543.

Payment of Compensation to the Complainants

In presence of the Accused

Rule 543. (1) The application of the complainant and a copy of the Chalan by which the fine was paid by the accused shall be filed and those shall be processed through the Pass Books or Registers in the ordinary way and the receipt and payment are to be made independent of each other.

(2) The order on the Chalan for the fine shall be signed by the Judicial Officer concerned and shall be an order to the Cashier to receive the amount and the order in Form No. (A) 4 shall be an order also directed to that Officer to pay, but shall contain the words "After the amount has been realized from AB".

Note1. The entry in the Register of Fines shall be made at the time of the transaction and not at the end of business.

Note 2. Compensation fines including costs in criminal cases when not paid on the spot in open Court, are to be dealt with as deposits under head (a) of rule 506.

Rule 544. In cases dealt with under rule 543, the Chalans must be filed in triplicate, out of which the first copy of the Chalan shall be returned to the payer, the second copy containing payment order shall be retained in the custody of the Cashier and the third copy of the Chalan shall be filed with the record of the case.

6. Account Keeping and Remittance to The Treasury

Courts Near Treasuries

Rule 545. (1) In Courts situated within the daily reach of the Treasury, the Accountant, shall, after the close of business each day, make the proper entries in the Treasury Pass Book [Form No. (A) 13] showing in detail the sum received from and paid to the public in cash.

(2) (a) The receipts shall be entered on the right hand side of the Treasury pass Book, and are to consist of the sums entered in column 5 of the Register of Chalans [From No. (A) 10] under the head 'Amount Received in Court'.

(b) Payments shall be entered on the left hand side of the Treasury Pass Book. and are to consist of the sums shown in column 5 of the Register of Payment Orders [Form No. (A) 12] under the head 'Amount Cashed in Court'.

Note. The remittance to the Treasury at the close of each day, as well as each payment to the public, must be entered in column 3 of the pass Book in Form No. (A) 13. To facilitate the calculation of the amount to be remitted to the Treasury, at the close of each day's business, two lines are provided in the Form, one to show the total of receipts and payments at the Court and the other the total for the day according to the receipt and payment sides. The receipts and payments at the Court being first entered and added up the difference between the total of receipts and that of payments will, if the receipts exceed the payments, be entered on the left side as remittance to the Treasury, or if the payments exceed the receipts on the right hand side as remittances from the Treasury. The total for the day will then be made up for both sides which will agree together. The number of the Chalan or the payment order, on the back of which the amount to be remitted to or received from the Treasury is noted (see Note 2 to rule 549), may be shown against the entry made below the total of

payments or receipts, but the head of account need not be noted on the Pass Book against the entries nor the entries are needed to be initialed by the Treasury Officer.

Rule 546. Every Chalan recorded in the Register of Chalans and every payment order for money received or paid at the Court under heads (a) to (g) of rule 506 shall be shown in detail in the Pass Book and the head of account shall be noted against each so as to enable the Treasury Officer to bring the transactions in detail upon his book and classify them correctly.

Note. It is necessary to show in the Pass Book the totals only of each Chalan and payment order. Each Chalan may contain any number of items, provided they belong to the same head of account.

Rule 547. (1) The Judge-in-Charge shall examine the accounts by comparing (1) the Registers of Chalans and Payment Orders (amounts received and paid in Court) with the Cashier's Cash Books and (2) the Treasury Pass Book.

(2) Besides examining the accounts as provided in sub-rule (1), the Judge-in-Charge shall also verify daily the balance in the hands of the Cashier and see that it agrees with the balance shown in the Cash Book.

Daily Remittances

Rule 548. (1) The balance of the Cashier's account in respect of peremptory receipts etc. shall be verified every day by the Judge-in-Charge in passing the Cash Book and to prevent excessive accumulation under this head. The Judge-in-Charge shall fix the amount beyond which

the Cashier shall not be permitted to keep any cash in his hand and such amount shall not in any case exceed Tk. 5,000 (Five thousand) only.

(2) The Cashier shall regularly transfer to deposit such amount as will keep down the balance within the limit prescribed under sub-rule (1) and if the money be subsequently required, it shall be withdrawn from deposit and credited in the Cash Book.

(3) If any peremptory receipt remains in deposit for three years, the same shall be carried to the credit of the Government under rule 571 relating to lapsed deposit.

Note. All Chalans for deposit under this rule should be kept in a Guard file.

Rule 549. (1) Having examined the accounts of the day and signed the Cash Book, the Judge-in-Charge shall send the Pass Book to the Bank through the Treasury together with the net amount in cash and a single Chalan for the total receipt under the head (a) and separate Chalans for receipts falling under heads (b) and (c) and consolidated Chalans for the receipts under heads (e) and (f) of rule 506 as well as all payment orders and remittances shall be entered in the Cash Book on the day on which these are made.

(2) Separate Chalans received from parties in respect of receipts under heads (a), (c) and (f) of rule 506 shall be retained in the Court.

Note 1. Remittance to the Bank under this rule should be done before the business of the next day commences and the Cashier should have in hand, after each such remittance, only the balance of the peremptory cash transactions and other balances referred to in rule 526.

Note2. The total of the Chalans of the day for money received in cash by the Court minus the total payment orders cashed at the Court will represent the balance of cash to be remitted to the Treasury. The amount so remitted will be noted on the back of the last Chalan entered in the Pass Book [Form No. (a) 13] in order to avoid the separate Chalan which otherwise would be required by the Treasury Officer.

Courts not near to Treasuries.

Rule 550. (1) At outlying stations, the Cash Book shall be maintained in the manner stated above and the balances of both the receipts and payments under heads (a) to (g) of rule 506 and of peremptory transactions shall be carried forward to the next day's account.

(2) The accounts shall be maintained, compared and signed every day in the manner shown in rule 547, save and except that, instead of comparing the Treasury Pass Book with the accounts, the Judge-in-Charge shall see that the Court balances are brought forward and shall ascertain that the money is actually in possession of the Cashier.

Periodical Remittances

Rule 551. (1) On the last day of the month, and from time to time as occasion may arise, the Treasury Pass Book shall be made up showing all receipts and payments at the Court since the last remittance to the Treasury.

(2) The accuracy of the accounts shown in the Treasury Pass Book having been verified, it shall be forwarded to the Treasury with a single

Chalan for the total receipts and all payment orders, the separate Chalans received from the parties being retained in the Court.

(3) If the receipts have exceeded the payments, the cash excess shall be sent to the Treasury, and in the case to the contrary, the cash deficit shall be received from the Treasury, and in either case, the Cashier shall have, after the completion of the transaction, in addition to the balance of the peremptory cash transactions, only the permanent advance allowed to the Court for making its payments from the Treasury.

Note. As the Treasury does not keep a detailed record of the deposit receipts it will suffice if the gross receipts are communicated thereto with a single Chalan.

Adjustments with The Treasury

Rule 552. (1) The last day for remittance for each month must be so fixed that the final payment or receipt of money at the Treasury may come within the month's accounts at the Treasury. Otherwise the monthly accounts mentioned in the Court and those of the Treasury will not agree.

(2) Any transaction in the Court, after the remittance mentioned in sub-rule (1), is made, although shown under their proper heads, should be treated as if they belong to the ensuing month's Accounts Registers and Returns.

Rules Regarding Remittances

Rule 553. (1) It is the duty of the Judge-in-Charge to see that money remitted from his office actually reaches the Treasury and is acknowledged

by the Treasury Officer in the Pass Book when the sum remitted is not than Tk. 1,000 (one thousand) and by the authorized staff of the Treasury Officer when it is less than Tk. 1,000 (one thousand).

(2) Where the Court remits the money directly to any Bank having Treasury functions, the Branch Manager of the Bank concerned should acknowledge the receipt of the remittance in the Pass Book.

Rule 554. In making the remittances for an amount not less than Tk. 50,000 (fifty thousand), the Judge-in-Charge shall make requisition for the police force, so that the cash amount could be carried safely.

Treasury Advice List

Rule 555. (1) At the close of business each day, the Treasury Officer shall prepare Advice Lists in Form No. (A) 7 of all such Chalans and payment orders of the Judge-in-Charge as have been brought upon the Treasury Accounts in the course of the day and shall forward them to the Judge-in-Charge with the Chalans referred to in rule 521(3).

(2) The Advice List shall contain in detail the particulars of such Chalans and payment orders as have been received and paid at the Treasury or in the Bank having Treasury function in cash, while those brought into Treasury account from the Pass Book (See rule 546) and that shall be included in a single total on each side, with the description "As per your Pass Book dated .....".

Note 1. The despatch of Daily Advice List from the Treasury should be insisted upon by the Judge-in-Charge and any delay in the matter of non-observance of this rule should be promptly brought to the notice of the higher authority.

Note 2. If the Court is close to the Treasury so that the Magistrate's Registers referred to in rule 557 can be sent daily to be compared and initialed by the Treasury Officer, this procedure may be adopted in lieu of Daily Advice List, if found more convenient.

Rule 556. (1) The list prepared at the District Treasury for the Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall include, besides the money received and paid on account of his own Court, those transactions also which belong to the subordinate Magistrates' Courts.

(2) The money referred to the sub-rue (1) need not be entered in details, but may be included in a single total of receipts and of payments for each Court including Pass Book transactions brought into account.

Comparison by The Judge-in-Charge

Rule 557. On receipt of the Advice list, the Judge-in-Charge shall cause the particulars of the Chalans and payments orders shown in it to be compared with the details recorded in the Registers of Chalans and Payments Orders [Forms No. (A) 10 and (A) 12], and shall further cause the date of actual credit and payment as certified by the Treasury Officer to be entered in the column prescribed for that purpose.

Rule 558. The entries of the Registers of Chalans and Payment Orders referred to in rule 560 shall be initialed by the Judge-in-charge when he checks the postings in the Register of Deposit Receipts.

7. Deposit and Repayment Registers

Rule 559. (1) Two Registers of Deposits Receipts shall be maintained in Form Nos. A (14) (i) and A (14) (ii) and two Registers of Deposits Repayments shall be maintained in Form Nos. A (15) (i) and A (15) (ii).

(2) Of the two sets of Registers mentioned in sub-rule (1), one shall be termed the Register of A-Deposits wherein all deposits shall be exceeding Tk. 200/- and the other shall be termed the Register of B-Deposits, wherein no deposit shall exceed Tk. 200/-.

(3) Both the Registers of A-Deposits and B-Deposits shall be kept in the same Form and shall be posted in the same manner but with separate series of numbers distinguished by the initial letters A and B respectively.

Posting

Rule 560. (1) On the day of which the Treasury Advice List is received, the Deposit Register shall be posted, i.e., transactions at the Treasury shall be written up from the Advice List below the entries made under rule 514 on the date of which the Advice List is received.

(2) The date of payment into the Treasury and also the date of posting the transaction shall be entered in the Deposit Register.

(3) The entries in the Advice List shall be compared with those in the Register Nos. (A) 10 and (A) 12.

Note. The date of granting the payment order should be entered in the repayment column in the Register of Deposit Receipts and the date of actual payment in column No. 4 of the Register of Deposits Repayment.

Registers of Receipts

Rule 561. (1) All items of deposit in the Register of Deposit Receipts shall be numbered in an annual consecutive series or numbers commencing on the 1st duly and ending with the last day of June in each year.

(2) Only the first eight columns of the Register of Deposits Receipts shall be filled in at first, the other columns being intended for record or subsequent repayment.

Notes of Claims

Rule 562. As it is important that the Register of Deposit Receipts in the Accounts Department should set forth in respect of each item all information necessary in order to deal at once with applications to draw money, all attachments, processes and all orders as to the substitution of parties which affect money in deposit, shall be noted at the relevant time in the Register of Deposit Receipts.

Note 1. The concerned staff or some other employee of the Court shall specifically be made responsible for the duty of noting attachments etc. under this rule.

Note 2. It shall be the duty of the Record Keeper to record the orders regarding attachment, substitution etc. and to send it to the Accountant as soon as possible after he received it for being noted in the Register of Deposit Receipts. This, however, does not relieve the Judge-in-Charge of Accounts from seeing that the duty has been performed properly.

Registers of Repayments

Rule 563. The Register of Deposit Repayment [Form No. (A) 15] shall be posted from the Treasury Advice List and the Payment Order Register.

Rule 564. (1) The Registers of Deposit Receipts and Deposit Repayments in Courts at headquarters shall be totalled and closed on the last day of each month, on which the District Treasury remains open, and in outlying stations on the day on which the accounts of the Upazila Treasury are finally closed for the month, in such a way that the period and transactions included in the Court's Accounts Book and returns may correspond exactly with those included in the Treasury books and returns.

(2) Care must be taken to make the final remittance to the Treasury in such time that it may be entered in the accounts of the Treasury for the month to which it belongs.

(3) In each of the Registers of Deposit Receipts prescribed in rule 559, a plus and minus memorandum must be drawn up at the end of the month's entries in the following form, namely:

Balance of deposits from last month Tk. .....

Received during the month
as per Register Tk. .....
Total Tk. .....

Repayment, as per Register Tk. .....

Balance under the order
of the payment at the
end of the month ..... Tk. .....

Balance at the end of month ..... Tk. .....

8. Control over Subordinate Courts

Rule 565. (1) Every Magistrate is responsible for all payments of deposits made on his certificate or under his orders.

(2) (a) In the case of receipts and payments of petty or B-deposits, no detailed check is exercised for all the proceedings of the Magistrate and he is only required to render accounts in this respect by showing the totals of all receipts and payments.

(b) In the case of A-Deposits, all sums received and not paid out during the month in which they have been received and the balance of such deposits as have been partly out must be reported to the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, and must be included in the Chief Judicial Magistrate's or the Chief Metropolitan Magistrate's accounts showing them in his return to the controller General of Accounts.

9. Monthly Returns

Returns of Deposit Receipts

Rule 566. (1) One or before the 10th day of each month, an Extract Register of Deposit Receipts exceeding Tk. 200 (two hundred) shall be prepared by the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, in Form No. (A) 9 and forward to the concerned Treasury Officer for onward transmission to the Controller General of Accounts after an examination and comparison with his office accounts.

(2) The Extract of the Register shall be a copy of the entries made during the month on the Chief Judicial Magistrate's or the Chief Metropolitan Magistrate's Registers in Form Nos. (A) 14 (i) and (A) 14 (ii) and shall contain all such items of more than Tk. 200 (two hundred) each as were deposited in his own Court and in the Courts of Magistrates subordinate to him omitting all those which were wholly repair during the month and showing in the case of those particularly repaid during the month. However, all deposit balances are to be entered in the concerned column on the Register.

(3) In the Extract of the Register, the district Court's entries should appear first and then, after a line or break, the entries of each subordinate Court separately headed by the name of the subordinate Court, shall appear and at the foot of this Register deposit received and unpaid balance during the month. Deposits received for sums of Tk. 200 (two hundred) each and less are to be shown in separate totals for each Court without detailed particulars.

(4) The whole of the entries for each Court should be consecutively classified and separated from those of the other Courts by a space and heading.

Note 1. The Extract of the Register should be despatched punctually on or before the 10th day of the month.

Note 2. For being included in the monthly return of the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, all other Judicial Magistrates or Metropolitan Magistrates will sent their respective monthly returns in the manner indicated in this rule to the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, not later than the 5th day of the next month.

Returns of Deposits Repayment

Rule 567. (1) A monthly extract from the Register of Deposit Repayments [Form No. (A) 15] of sums exceeding Tk. 200 (two hundred) shall be forwarded in the same Form by the Chief Judicial Magistrate or the Chief Metropolitan Magistrate to the Treasury Officer for onward transmission to the Controller General of Accounts after they are being examined and compared with his office accounts.

(2) The Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall include in the extract referred to the sub-rule (1) the following, namely-

(a) details of repayments on account of deposits of previous months, whether made in his own Court or in the sub-ordinate Courts;

(b) a single total for each Court of the repayments of the current month's deposits, whether made at the District or Upazila Courts which must agree with the total of receipts on the same account;

(c) the separate totals for each Court of the repayments on account of deposits of Tk. 200 (two hundred) or less received during the year of account and the year next preceding.

(3) Like the Extract of the Register of Deposit Receipts, the return under this rule shall show each Court's entries in separate series, the extracts being prepared on the same printed Form as in the Register and shall be posted as illustrated below: -

Illustration

Details of deposit				Dates as to present Repayment	
Date of receipt	No. as per Register o receipts	Amount of balance of deposit	Date of cashing payment order whether at Court or at Treasury	Date of granting payment order as per Court's Register	No. of payment voucher
1	2	3	4	5	6
Court A 7th Septermer,1996		Tk. P. 207.00	3rd September 1996	2nd September 1996	018
3rd January, 1996		314.00	Ditto	Ditto	017
7th June, 1996		218.00	Ditto	Ditto	064

Amount paid	Received in all previous years	Received last year	Previous months	Current month	Initials of Accountant	Initials of Judge-in-Charge	Remarks
7	8	9	10	11	12	13	14
.....	Tk. P.	Tk. P.	Tk. P.	Tk. P.			
	225.00	250.00	-	370.00			
	.....	206.00	275.00	.....			
			308.00				
Total	225.00	456.00	583.00	370.00			

Illustration--contd.							
Add Repayment deposit of current month				329.00			
Add-13 Deposits repaid	29.00	33.50	90.20	63.20			

Total Court A.	236.40	351.50	308.20	392.20			

Plus Minus Memorandum

Rule 568. (a) A plus and minus memorandum in the Form given below including the figures of the subordinate Courts as well as those of the Chief Judicial Magistrate's or the Chief Metropolitan Magistrate's own Court shall be appended to the Statement of Deposit Receipts referred to in rule 566.

Taka

1. Balance of last month .....
2. Amount of a Deposits received during the month.....
3. Repaid during the month.....
4. Not repaid during the month .....
5. Amount of B deposits received during the month.....
6. Repaid during the month .....
7. Not repaid during the month .....

1. Amount of A Deposits received in previous years ..... to .....
2. Received last year .....
4. Received during the current year .....
5. Received in previous months .....
6. Received in the current month.....

1. Amount of B deposits repaid during the month.....

2. Received during current year .....
3. Received during current year .....

Balance of Deposits Outstanding .....

Certificate

Certificate that, on a comparison of Treasury Advice with positing there from in the Registers of Chalans, Payment Orders, Deposit Receipts, and Repayments, the amounts entered above as received and paid are correct.

Note. The repayments of B-Deposits, received in the year of account and in the year next preceding, should be shown separately.

(b) The "plus and minus memorandum" is to show the actual repayment at the Treasury and is further to show the Treasury balance outstanding.

Note. It will be found convenient to keep in a separate Register a copy of this plus minus memorandum with further memoranda of the details from which the figures have been arrived at.

(c) For being including in the monthly plus and minus memorandum, all other Magistrate including the Upazila Magistrates shall send similar plus and minus memorandum including the figures of their own Courts and of Courts subordinate to them in the manner indicated in this rule to the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, not later than the 3rd day of each month.

10. Annual Clearance Register of Deposits

Clearance Register

Rule 569. (1) Al the end of each year, the Register of A-Deposits received in the next preceding year shall be closed by noting in the last column of the head- 'Transferred to Clearance Register', every balance which exceeds Tk. 200 (two hundred).

(2) An Annual Clearance Register shall then be drawn up in Form No.(A) 16 showing all the balances against their original numbers, in other words, all the unpaid balances of the deposits of the preceding account year next but one (for example, the Clearance Register of the year 2003-2004 will show all unpaid balances of A-Deposits received in 2001-2002).

(3) In respect of balances which do not exceed Tk. 200 (two hundred), a separate list shall be made under rule 576.

Rule 570. The entries in the Clearance Register having been carefully compared with the corresponding balances in the original Register of Deposit Receipts, the Register shall be laid aside and future repayments shall be recorded only in the Clearance Register.

Note. If against any of the entries transferred to the Clearance Register, a repayment order has been issued and cancelled under rule 536(4), A note to that effect shall be made in the Clearance Register, so that is application for repayment is again made, an order may not be issued without recalling the original cancelled application.

Return By The Chief Judicial Magistrate/

Chief Metropolitan Magistrate

Rule 571. Clearance Register of the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall include the entries of the Clearance Register of the subordinate Courts and a copy thereof shall be sent to the Controller General of Accounts and Local Treasury Office each.

Note. The copy of the Clearance Register shall be sent to the Controller General of Accounts under this rule on or before the 31st day of July and the copies of the Clearance Register, shall be sent by the Subordinate Courts to the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, within the 15th day of July, who shall, in turn, forward the same to the Controller General of Accounts.

Verification of Petty Deposit Balance

Rule 572. (1) In order to verify the balance of B-Deposits, each Court shall make a list of the unpaid balances or receipts of the past twelve months and by actual summation of these balances, it shall find the total amount outstanding on account of the past year's deposits.

(2) Each Court is required to submit along with the Clearance Register of A-Deposits, the list of unpaid balances of B-Deposits prepared by it and a certificate that the balance of B-Deposits of the past year has been found by actual summation to be Tk .....

Rule 573. The Balance found under rule 572 together with the total of the list prepared under rule 572(2) must be equal to the total balance of

petty deposits on June 30 and must be so verified by each Court with the forward balance in the plus and minus memorandum.

Rule 574. The Chief Judicial Magistrate of the Chief Metropolitan Magistrate having verified the balance certificates of the subordinate Courts shall endorse each with the certificate 'Examined and found correct' and certify the fact of having done so upon the statements of lapsed deposits sent to the Controller General of Accounts under rule 576.

Note. The Chief Judicial Magistrate of the Chief Metropolitan Magistrate shall submit a certificate to the Controller General of Accounts in the following form along with the annual returns certifying that he has satisfied himself from an examination of the records on his office that the Register of B-Deposits of the Court as well as those of the subordinate Courts are kept up to date and are in order and that the balance on the 30th June, as certified by the subordinate courts, agrees with those shown in the Registers maintained in his office for the past years.

11. Lapsed Deposits

Rule 575. (1) On the 30th June of each years, the following unpaid balances of deposits lapsed to the Government and are to be so written off in the Clearance Register and Register of Deposit respectively; in respect of A-Deposits- (a) all balances of deposits of the last account year, but one with does not exceed Tk. 200 (two hundred) and are therefore, not carried forward under rule 596 into the Clearance Register and are to be marked off "Lapsed" in the Register of Deposit Receipts; and (b) all balances of deposits outstanding over three complete years, i.e.

all balances in the Clearance Register prepared two years before are to be marked off "Lapsed" in the last columns of the Clearances Register.

(2) In respect of B-Deposits, the balances of all deposits outstanding over one complete year are to be marked off "Lapsed".

Example, The balances which lapse on the 30th June of 2002 are: -

(a) All balances not exceeding Tk. 200 (two hundred) of A-Deposits received in 2000-2001.
(b) All balances of A-deposits received in 1998-1999, and
(c) All balances of B-Deposits received in 2000-2001.

Statements of Lapsed Deposits

Rule 576. (1) Three statements of the balances to be written off shall be prepared in Form No. (A) 8, one for each of the three classes (a), (b) and (c) specified in the example given in rule 575.

(b) Statements referred to the sub-rule (1) shall be submitted to the Controller General of Accounts along with the Clearance Register.

Note. The statement of the Chief Judicial Magistrate of the Chief Metropolitan Magistrate shall include the lapsed balances of A-Deposits of the Subordinate Courts.

(3) As regards B-Deposits, the statements received from the Subordinate Courts must be copied and shown in the statements of the Chief Judicial Magistrate of the Chief Metropolitan Magistrate with a separate total for each Court, the originals being filed for future reference.

Note. The note under rule 570 applies to the statements of Lapsed Deposits also.

Correction Of Balances

Rule 577. The statements of Lapsed Deposits referred to in rule 576 shall be submitted during the month of July and the totals thereof shall be deducted by a separate entry from the plus and minus memorandum drawn up at the end of July, so that the plus and minus memorandum may show only the balance actually outstanding upon the Registers of the Court concerned.

Refund Of Lapsed Deposits

Rule 578. (1) (a) When payment of a deposit lapsed under rule 575 is required by a person entitled thereof, the application shall be made through the concerned Chief Judicial Magistrate of the Chief Metropolitan Magistrate, as the case may be, who shall examine the claim and verify the same with the Treasury records. If he finds to correct, then he shall forward the application in Form No. (A) 3 to the Controller General of Accounts.

(b) Several deposit number may be included in a single application if they are payable to the same person.

(2) (a) The Controller General of Account's letter of authority, when received, shall be noted against the entry in the Clearance Register or in the Original Register in the case of B-Deposits so as to prevent the second application.

(b) The Controller General of Account's letter of authority referred to in clause (a) shall be passed for payment at the Treasury as prescribed in the Form.

Note. No other record for the refund of Lapsed Deposit is necessary and such payments are not to be shown in the plus and minus memorandum.

Rule 579. All application for refund lf Lapsed Deposits shall be entered in a separate Register in the following form before submission to the Controller General of Accounts for sanction.

No. date of
and deposit

Date issue	Serial No.	Name of applicant	No. and date deposit of	Date of lapsed Deposit	Amount claimed	No. and date of CGA's authority	Remarks

Note. Dated signature of the person receiving the authority should be taken in the remarks column.

Rule 580. If the letter of authority received from the Controller General of accounts is not claimed by the payee within twelve months from the date thereof, it shall be returned to the office of origin.

12. Supplementary rules as to receipts under heads (b) to (g) of rule 506

Register

Rule 581. Every Judge-in-Charge shall maintain a Register of Miscellaneous Receipts in Form No. (A) 17, in which all receipts which do not come under head (a) deposits or head (h) peremptory receipts shall be posted.

Note. The entries in this Register shall be made and checked in the same way as the entries in the Register of Deposits of the subordinate Courts.

Credits To The Governments

Rule 582. (1) Every Magistrate shall see that sums which are in deposit but which under any rule of law are forfeited or become the property of the Government are duly credited to the Government.

(2) In every case referred to in sub-rule (1), the Magistrate shall ensure the following\-

(i) a payment order addressed to the Cashier and directing payment of the deposit by transfer as per Chalan No. .....of ..... date, and

(ii) a Chalan crediting it to the proper head.

(3) The payment order and the Chalan referred to in sub-rule (2) shall be registered and dealt with in such way as if cash were paid out of and received into Court.

Receipts under heads (c) to (e) of rule 506.

Rule 583. The stamp duty and penalty realized under the provisions of the Stamp Act, 1899 shall be separate credited.

Rule 584. As regards the unclaimed property, it shall be noted that the Register in Form No. (A) 17 deals only with the receipts under this head which have remained in deposit for the prescribed period.

Rule 585. Under head (e), other general fees, forfeiture etc. of rule 506 shall be comprised all receipts not failing under any of the other principal heads of receipts e.g., forfeiture of earnest money etc.

Monthly Returns

Rule 586. (1) At the close of the month, the Judge-in-Charge shall prepare a list of Form No. (A) of all miscellaneous receipts paid by him into the Treasury.

(2) The subordinate Courts shall forward their lists in duplicate to the concerned Chief Judicial Magistrate or the Chief Metropolitan Magistrate as the case may be, who add the total of these lists at the foot of his own list, append one of the copies received by him from each subordinate Court and forward the whole to the Controller General of Accounts for verification against the Treasury Accounts sending a copy of the same to the Sessions Judge.

Functions of The Accountant and The Cashier

Rule 587. For the purpose of performing the duties in this Chapter, separate staff shall be employed as Accountant and Cashier. In other words, the same person shall not keep the Registers of Chalans, Payment Orders, Deposit Registers etc. and receive and pay the money simultaneously.

Note. The Judge-in-Charge shall see that the Accountant and the Cashier do not occupy the same room and, as for as possible, they should sit separately in different rooms.

Language of Accounts

Rule 588. Every Judge-in-Charge of Accounts shall ensure that the accounts are being maintained preferably in Bangla and he will be responsible for general control and supervision over the staff of the Accounts Department.

Daily Examination of Accounts

Rule 589. The accounts Registers of which a list is given in Appendices I and II annexed to these rules, shall be compared daily by the Judge-in-Charge of Accounts, and this rule is on no account to be neglected as its observance is essential for ensuring the integrity of the transactions and the correctness of the books.

Note. The notes at the foot of the Forms mentioned in Appendices I and II indicate how the verification is to be made.

13. Rules Relating to Fines

Rule 590. (1) Two Registers of Criminal Fines in Form No. (A) 21 shall be maintained in the office of every Chief Judicial Magistrate or the Chief Metropolitan Magistrate and in the offices of all Subordinate Judicial Magistrates for the purpose of keeping an account of all Judicial fines and all sums which under any law are realizable as fines.

(2) The Register of Criminal Fines shall be kept by the Cashier or any other Assistant specially entrusted by the Magistrate, who for the purpose of these rules, is hereinafter described as the Assistant-in-Charge of Fine Register.

Note 1. For convenience, the Magistrate may assign their respective Bench Assistants to perform the functions of the Assistant-in-Charge of Fine Registers.

Note 2. Only one set of Registers shall be maintained at each office.

Note 3. Railway fares and penalties imposed and realized under the provisions of the Railways Act 1890, should be entered in the Registers of Railway finds and penalties [Form No. (A) 22]. This Register will also serve the purpose of the Case Register, Process Register and Fine Register in such cases.

Rule 591. (1) In the Register of Criminal Fines in Form No. (A) 21, all fines imposed by any of the Magistrate of the station shall be entered in a consecutive monthly series.

(2) The Register of Criminal Fines shall be used for recording only fines imposed during the quarter of the year and transactions concerning the outstanding fines.

Rule 592. (1) If a fine is not realized, remitted or written off wholly or in part, in the quarter of the year in which it is imposed, the whole fine or any outstanding balance of it, as the case may be, shall be entered in the Register of Outstanding Fines under column (a) for the following quarters of the year and all subsequent realizations shall be shown against the entry under the quarter of the year, in which such realization occurs.

(2) Realization of fines during the same month in which the fine was imposed shall be entered in the proper column of the Register of Criminal Fines against the original entry.

(3) If within any month more than one realization is made, a total should be struck in the body of the page in both the cases mentioned in sub-rules (1) and (2).

(4) The Assistant-in-Charge of Fine Register, after entering the amount realized in the Register of Criminal Fines or the Register of Outstanding Fines, as the case may be, shall submit the Register with his report to the Magistrate, who will initial the entry of realization.

Rule 593. (1) When any fine or part of a fine is remitted in any quarter of the year subsequent to that in which it may have been imposed, whether on appeal or otherwise, or becomes irrecoverable in consequence either of the lapse of six years from the date of sentence or of imprisonment having been suffered in lieu of fine in the cases mentioned in rule 601, the amount remitted or lapsed shall be entered in the Register of Outstanding Fines under the quarter of the year in which it is so remitted or lapsed.

(2) When a fine is remitted in the same month in which it may have been imposed, the entry shall be made in column 9 of the Register of Criminal Fines.

Rule 594. (1) When a fine is imposed by a Court of Sessions, it shall, except when the fine is realized in Court, issue a warrant for the realization of the fine to the concerned Chief Judicial Magistrate or the Chief Metropolitan Magistrate and in no case, shall send the warrant directly to a Police Officer for realization of the fine.

(2) The Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, on receipt of the warrant, shall follow the procedure laid down in rule 595.

Rule 595. (1) When a warrant for realization of a fine is received from the Sessions or any other Court not under the control of the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, and not being a Magistrate's Court in another district, the fine shall be entered in the Register of Criminal Fines or the Register of Outstanding

Fines, accordingly as it was imposed in the current or in any preceding quarter of the year, and shall be treated in all respects as a fine imposed by the Magistrate of the district or the Metropolitan area, at which the offender has declined to pay and for the realization of which a warrant has been issued.

(2) (a) If the amount of any fine imposed by a Court of Session is realized in Court, the Court of Sessions shall direct the deposit of the amount to the Treasury under the proper head of accounts relating to realization of Fines, Fees Forfeitures etc.

(b) A Register shall be maintained, in the office of every Court of Session for keeping an account of all fines realized.

(c) The Register referred to in clause (b) shall be in Form No. (A) 21 with necessary modifications.

(3) (a) When an order of fine is confirmed on appeal, the fine will continue to be shown in the Register in which it was originally entered and be treated as one imposed by the Court which originally tried the case.

(b) If the fine is enhanced on appeal or a new fines is imposed in modification of a sentence of imprisonment, the additional fine or the new fine, as the case may be, will entered in the Register of Criminal Fines of the Court originally trying the case as a fine imposed by the Appellate Court and, for the purpose of its realization, will be treated as a fine imposed by the original Court.

(c) When a fine is enhanced on appeal, the entry of the original fine in the Register of Criminal Fines will remain unchanged, a note being made against it about the order of the Appellate Court.

(4) The entries made under the rule may be conveniently distinguished by prefixing to them is red ink the letters "AD" (Appellate Division) or "HCD" (High Court Division) of "SC" (Court of Session), etc.

Rule 596. When an offender is sentenced to a fine by a Magistrate in a Metropolitan area or at the headquarters of a district or Upazila, a small printed Form called the Fine Cheques (Form No. (A) 26] shall be at once filled in by the Bench Assistant with the particulars, and sent by him with the person fined, held under the custody of police, to the Assistant-in-Charge of Fine Register.

Rule 597. (1) (a) The printed Forms prescribed in rule 596 shall be bound together like a cheque book, each book containing 100 Forms with the serial numbers printed on both the foil and counter-foil.

(b) The foil (outer section) shall be torn off and sent with the person fined to the Assistant-in-Charge of Fine Register and the counter-foil shall be retained in the Magistrate's office.

(2) The Fine Cheque shall be used by the Magistrate in all cases, whether the fine is imposed by himself or the Court of Session or the High Court Division.

Note. The counterfoils of the Fine Cheque Book shall be used to verify the Register of Criminal Fines and the Magistrate or the Judge-in-Charge shall verify the Cheque Book and the Register of Criminal Fines

from time to time to ascertain if the fines paid by the convicts have been realized and credited to the Government.

Rule 598. (1) When the person fined is sent to the Assistant-in-Charge of the Fine Register under rule 596, the Assistant-in-Charge shall call upon the prisoner to pay the amount of fine.

(2) If the fine is paid in full, the necessary entries shall be made and the person fined released, unless he is also sentenced to imprisonment.

(3) If the sentence is one of fine only, and the fine is paid in part, the entries shall be made and the prisoner released and an application made by the Assistant-in-Charge of the Fine Registers to the Court which passed the sentence for a warrant for realization of the balance.

(4) If the sentence is one of fine only and the fine is not paid at all, the Assistant-in-Charge of the Fine Register shall apply for a warrant for the realization of the whole amount.

(5) No person, but not under any sentence of imprisonment, alternative or otherwise, shall be detained on account of inability to pay the fine.

(6) (a) Where the sentence is one o fine, with or without a substantive term of imprisonment, but with an alternative sentence of imprisonment in default of payment of the fine, if the fine is not wholly paid or realized at once, the Assistant-in-Charge shall report to the Court which imposed the sentence, and shall take its written order as to the term of imprisonment proportionate to the amount still unpaid which, under sections 68 and 69 of the Penal Code, the convicted person is yet to undergo.

(b) In cases mentioned in clause (a), the fact of payment of the fine, in whole or in part, shall be noted on the warrant of commitment by the Magistrate who has issued it.

Rule 599. A receipt is Form No. (A) 29 shall be granted to the person paying a fine by the Assistant-in-Charge of Fine Register.

Procedure on Realization of fine when the Prisoner fined is in Jail.

Rule 600. (1) Any payment made during the term of imprisonment shall at once be reported by the Assistant-in-Charge of the Fine Register to the Magistrate, who, after satisfying himself that the necessary entries relating to the payment have been made in the Fine Register, or the Outstanding Fine Register, as the case may be, shall immediately give notice of such payment to the Superintendent of the Jail, in which the prisoner was first confined after conviction, with a view to amending the sentence of imprisonment or the release of the prisoner, as the case may be.

(2) The line realization statement shall be drawn up by the Court in the prescribed from preferably in Bangla, and shall be send in duplicate to the jail at the first opportunity.

(3) The responsibility of the Court shall not cease until it has received back the duplicate statement with an acknowledgement from the jail showing that the necessary corrections have been made in the Release Diary.

Note. If the fine is paid before the transfer of a prisoner from the

original Jail, in which he was 4irst confined, to other Jail, the fine realization statement should be sent to the Original Jail.

Imprisonment in Lieu of Fine

Rule 601. (1) In any case, when under any special or other laws, imprisonment in lieu of fine is to be taken as a full satisfaction of the penalty, if the convicted person is sentenced to undergo the imprisonment, the Assistant-in-Charge of the Fine Register shall at once obtain a certificate from the Court imposing the sentence that the fine is no to be realized, and the amount of the fine shall, if entered, be struck off of the Register of Criminal Fines.

(2) Nothing laid down in this rule shall interfere with any special directions of tax for the attempted realization of fine by distress warrant or otherwise before carrying out any sentence of imprisonment upon the offender.

Remittance of fine to and Refund of fines from the Treasury

Rule 602. (1) All fines or parts of fines received by the Assistant-in-Charge of fire Register shall be paid by him daily in the Bank through the Treasury and for this purpose, the Pass Book with the relevant Chalans shall be sent to the Treasury and after being signed by the Treasury Officer (or where the sum does not exceed Taka one thousand, by the authorized staff of the Treasury Officer), the money shall be sent to the Bank with the Pass Book and the Chalans.

(2) During the holidays, the amount of fines realized may be kept in the general cash and the amount being entered in the Cash book as usual,

but the total amount of fines so realized shall be paid in the Bank provided in sub-rule (1) on the re-opening day of the Court.

Checking of the fine Registers

Rule 603. (1) In each Court, one of the employees (to be known as the Assistant-in-Charge of Fine Register) shall be specially assigned by a written order of the Court concerned with the duty of looking after the fin or other sentences passed by the Court and it shall be the duty of such Assistant to examine daily the Fine Register and to ascertain that each entry is made correctly.

(2) The Assistant-in-Charge of Fine Register shall also be responsible for speedy preparation of warrants.

Note. The Assistant-in-Charge will certify that he has verified the Fine Register by putting his initials in the proper column.

Rule 604. Each Magistrate shall examine the Fine Registers daily and check his own files signing his initials against each entry.

Note. The Magistrate should see that warrants are issued and remittances paid and acknowledged without delay.

Rule 605. (1) The Judge-in-Charge shall once a week compare the entries in the Register of Criminal Fines and in the Register of Outstanding Fines, and the Fine Cheque counterfoils with the Trial Register in all Courts in which the Registers are maintained and with the Complaint

Register, General Register of Cognizable Cases, Register of Non-Cognizable Cases and Register of Miscellaneous Cases in all other Courts.

(2) The Judge-in-Charge shall satisfy himself that the entries of the amounts of fine and the outstanding balances have been correctly transferred from the Register of Criminal Fines to the Register of Outstanding Fines, and verify the totals of the Registers.

(3) At the time of the weekly verification of the entries in the Fine Registers, the Judge-in-Charge shall carefully ascertain that all fines purported to have been remitted or written off under the orders of the competent authority are entered properly and shall certify that he has done so.

Compensation Fine

Rule 606. (1) (a) Compensation awarded under section 250 of the Code and under section 22 of the Cattle Trespass Act, 1871, costs of processes, etc. recoverable under section 31 of the Court Fees Act, 1870 and such amount of fine as is awarded as compensation under section 545 of the Code shall be entered in red ink in the Register of Criminal Fines.

(b) The balance, if any, of the fines imposed after compensation has been awarded under section 545 of the Code, shall be credited to the Government, the entry in the Register being made in black ink.

(2) (a) On realization, in whole or in part, the compensation fines and costs, whether paid on the spot in open Court or not, shall be

entered in red ink in the Register of Criminal Fines or Register of Outstanding Fines, as the case may be.

(b) The compensation fines and costs shall be credited as Criminal Deposits and the fact of their having been so credited shall be noted in red ink in the remarks column of the Register.

(c) All other entries, which may be necessary to make in the Registers relating to such fines and costs, shall likewise be in red ink.

Rule 607. After realization of the fine, the disbursement of the compensation will, in every case, excepting those provided for in rule 608, be made from the Treasury on the Magistrate's order.

Rule 608. (1) (a) In non-appealable criminal cases, compensation may be paid out of the fine imposed and realized before the parties leave the Court.

(b) The realization of the compensation fine from the offending party and its disbursement to the injured party shall be noted in the proper columns of the Fine Register taking signature from the Magistrate, who is responsible for the correctness of the entries so made.

(2) In all other cases, the Magistrate will give an order to Treasury for the amount as prescribed in rule 607.

Rule 609 (1) If the Court awards any portion of the fine as compensation to the complainant under the provisions of the Code

or the Companies Ad, 1994, or any other law for the time being in force, such portion of the fine may, subject to other provisions of this Chapter, be kept in the cash for a period not exceeding 15 days for facilitating the payment of the fine to the party entitled to it.

(2) If the party entitled to the part of the fine as compensation does not draw the amount within the time mentioned in sub-rule (1), the amount shall be deposited with the bank in the usual procedure.

Quarterly Balance Sheet of Fines

Rule 610. A Quarterly Balance Sheet in the following form should be prepared in a book kept for the purpose

Balance Sheet of fines for the month of.....20.....

Tk. P.

Opening grand balance of fines outstanding.....

Amount imposed during the month, i.e. total of entries in column 6 of the Register of Criminal Fines.....

---------- Grand total realizable

Tk. P.

Amount remitted on appeal, etc. or written off by Magistrate's order by

Total of column 8 of the Register of Criminal Fines: .....

Total of column (c) under current month of in the Register of Outstanding Fines Amount realized.....

Of new fines, i.e. total of column 12 of the register of

Criminal Fines of Old fines, i.e. total of column (b) under current month in the Register of Outstanding Fines.....

Grand total realized and remitted.....

_____

_____

Balance.....

Of new fines, i.e. total of entries in column 13 of the

Register of Criminal Fines

Of old fines, i.e. total of column (a) under ensuing month in the Register of Outstanding Fines

.....

Closing grand balance of fines outstanding

Amount credited as Criminal deposits.....

Certified that the total of the above realized fines, plus Tk....., the balance in hand of the preceding month, minus Tk....., Credited as Criminal Deposits, and Tk....., balance in hand, has been brought to credit in the Treasury Accounts.

Initials of the Treasury Officer.

Initials of the Assistant-in-Charge of Fine Register

Initials of the Assistant-in-Charge of Fine of the Principal Court

DISTRICT.

Magistrate

The 20

Rule 611. A copy of each Balance Sheet of a Upazila Magistrate's Court or any Court of outlying station shall be sent to the concerned Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, within 5 (five) days after the end of each quarter, and the Balance Sheet of the district headquarters or the Metropolitan areas ought to be ready within the same time.

Rule 612. A copy of General Balance Sheet of a district or a Metropolitan area in the Form prescribed by rule 610 shall be sent to the Controller General of Accounts and the local Treasury each within ten days of the close of each quarter.

Realization of Fines By The Police

Rule 613. (1) (a) At each Police Station, a Register in Form No. (A) 25 shall be kept of all warrants received by the police for realization of fines within its jurisdiction.

(b) Every such warrant shall specify the time within which it should be returned, which ordinarily should not exceed six months.

(2) The police shall return the warrant in due time, whether the amount of fine imposed, or any part of it, be realized or not, and they shall not retain time-expired warrants in their possession nor, after the warrant has been returned, pay any domiciliary visit to a defaulter with a view to realizing any portion of the outstanding fine unless fresh orders to that effect are issued.

(3) (a) Any enquiries, the police may make, when they have no warrant to authorize their action, shall be made only under the orders of a Magistrate with a view to ascertaining whether there are grounds for the issue of a fresh warrant.

(b) Enquiries referred to in clause (a) shall not ordinarily be made by a police officer below the rank of a Sub-Inspector.

Rule 614. (1) If it appears that a defaulter, in all probability, can pay the amount of fine outstanding against him, the police officers shall forthwith report the matter to the Magistrate having jurisdiction with a view to issuing a warrant.

(2) In all other cases, the police shall merely note "No assets" in the remarks column dating the entry.

Rule 615. (1) Where a substantive sentence of fine only has been passed and imprisonment in default has been ordered, a warrant may be issued forthwith.

(2) If the fine be paid or levied by process of law, whether in whole or in part, which the offender is undergoing imprisonment in default, sections 68 and 69 of the Penal Code shall apply.

(3) (a) When the efforts made to realize the fine in full are unsuccessful and the offender has undergone the whole of the imprisonment in default, the Court shall proceed according to the proviso to section 386(1) of the Code.

(b) In cases mentioned in clause (a), the record shall be called for and examined and if there is reason to believe that the offender is able to pay, but will not, and that he has elected to remain in jail in the hope of evading payment, the law shall be strictly enforced.

(c) Before issuing a warrant, the Court shall record in writing the special reasons which in its opinion make the issue of a warrant necessary and in recording these reasons, the Court must carefully consider the fact and circumstances of the particular case.

(d) If it appears that the failure to pay the fine is due to actual poverty or want of means or that any further realization would be ruinous to the offender or his family or dependents, no further steps should be taken.

(4) (a) In a case, where a substantive sentence of imprisonment is awarded in addition to a sentence of fine, a warrant for the levy of the amount by distress warrant and sale of movables shall be issued as expeditiously as possible.

(b) Realization of payment of the fine in whole or in part, while the offender is in jail, whether under the substantive sentence or

under the sentence in default under sections 68 and 69 of the Penal Code will be cancelled or proportionately reduced.

Rule 616. Warrants for the levy of fine as mentioned in sub-rule (4) of rule 615, if re-issued for any reason, shall be entered in the Police Station Register in red ink, but be treated as a fresh entry, a reference being made in the remarks column to the year and number of the original warrant.

Rule 617. In the event of the death of a defaulter being reported, an enquiry should be made as to whether he has left anywhere any property of any kind liable for his debts.

Rule 618. All fines realized shall be remitted with the returned warrant at once to the Magistrate's Assistant-in-Charge of the Fine Register.

Rule 619. (1) The Magistrate shall call for the Register of each Police Station at least once a quarter, and have it compared with the Fine Register of his Court and shall note whether the police enquiries have been regularly made and properly recorded.

(2) The comparison of the Registers shall not only be made by. the Assistant-in-Charge of Fine Register and it shall, when possible, be done by the Magistrate, and if not, by some other Assistant of the Magistrate' s Court.

(3) Entries in the Police Station Register regarding realization of fines imposed in other Districts, or, in Metropolitan area or in Upazila of the same district shall be compared with the entries of the

fine warrants in the Court Inspector's Registers of Processes and with the Magistrate Court's Cash Book once a quarter.

Writing-off of Irrecoverable Fines

Rule 620. (1) Subject to the control and supervision of the Sessions Judge or Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, may, at his discretion, makes orders for the writing off of all fines, which in consequence of the death of the defaulter, or of its having been ascertained after due enquiry that there are no assets, may be irrecoverable.

(2) A half-yearly statement of irrecoverable fines written off by the Sessions Judge, or Chief Judicial' Magistrate or Chief Metropolitan' Magistrate, as the case may be, shall be forwarded to the Controller General of Accounts and the local Treasury each, so as to reach their offices by the 15th January and by the I5th July of each year.

Realization of Fines Imposed by other Courts

Rule 621. In cases of fines imposed by a Court of District or Metropolitan Magistracy, but is realized by another Court outside the same, the following procedure shall be observed, namely: -

(i) The Court imposing the fine shall issue a distress warrant directed to the Chief Judicial Magistrate of the district or the Chief Metropolitan Magistrate of a Metropolitan area where the property of the person sentenced or confined in prison is situated.

(ii) The Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, on receipt of the warrant mentioned in sub-clause (i) shall deal with it as if the fine was imposed in his own District or Metropolitan area.

(iii) The warrant referred to in this rule shall contain the following particulars, namely, the name of the person so sentenced or confined in prison, the date, nature and description of the sentence, the name of the Jail in which the prisoner was first confined after conviction and the name of the Court issuing the warrant:

Note 1: If the convict prisoner has not been transferred from the Jail, in which he was first confined, to another jail, then the name of the former Jail should also be given,

Note 2. (i) The proceeds of all fines realized by the Court under this rule shall be paid into the local Treasury.

(ii) The amount shall be carefully distinguished from local fines and shall be separately acknowledged by the Treasury Officer.

(iii) No entry of the fines realized under this rule shall be recorded in the Fine Registers of the headquarters where the fine was recovered, but the amount realized must be credited to the Magistrate Court's Cash Book.

Note 3. (i) The realizations. of all fines Made under this rule shall be immediately communicated together with the Treasury Receipts and the warrant to the Concerned Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, arid to the transferor Judicial Magistrate whom the fine was imposed.

(ii) The transferor Magistrate shall note the realization of fines in the Register of Criminal Fines, or in the Register of Outstanding Fines, as the case may be, after getting intimation of the realization under sub-clause (i).

Note 4. The use of Remittance Transfer Receipts is strictly prohibited.

Note 5. The procedure mentioned in this rule is applicable mutatis mutandis in respect of fine imposed by a Magistrate at the headquarters and realized in a Upazila or imposed in one Upazila and realized in another Upazila of the same district.

Note 6. The fact of recovery of the fine realized from the property of a convict prisoner shall be reported to the Superintendent of the Jail referred to in clause (a) by the transferor Magistrate:

Provided that if the fine is realized in a district or in an area in which the prisoner is confined in the Jail, the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall also immediately send intimation directly to the concerned Superintendent of the Jail.

Note 7. In all cases of communicating the realization of fines by the despatch of the Treasury receipt to the Court of the Magistrate in a District or a Metropolitan area or a Upazila where such fines were imposed, it will be the duty of the Assistant-in-Charge of Fine Registers to verify and acknowledge the receipt of the same. In

case of undue delay, the said Assistant should draw the attention of the Magistrate and take steps to send reminder to the Court.

Miscellaneous Instructions of Fine Realization

Rule 622. (1) All officers receiving and remitting money to the Treasury, are in all cases bound to demand receipts from the payees i.e., the concerned Treasury Officer and the responsibilities of the officers remitting money shall not cease until the acknowledgement of receipts have duly been received back.

(2) All fines, under whatsoever law they may be imposed, are payable only to the Court imposing the fine or to the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, within the jurisdiction of which or whom the prisoner is confined in jail, or to the Police Officer entrusted with the warrant for its execution.

(3) The receipt of fines by a Jailor is unauthorized, and the Jailor is, therefore, prohibited from receiving any payment on account of fines under any circumstances, whatever that may be.

(4) When a fine or a portion of a fine, which is supposed to be, according to the rules, be entered in the Register of Criminal Fines is received by the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, the amount so received shall then be shown in the Chief Judicial Magistrate's Cash Book or the Chief

Metropolitan Magistrate's Cash Book, but not in the Court's Cash Book of the sentencing Magistrate. The extract of the Fine Register, and a copy of the Chalan of Payment and of the Fine Realization Statement sent to the Jail shall be forwarded to the concerned sentencing Judicial Magistrate, so that the amount may be written off as paid in the Register of Criminal Fines or in the Register of Outstanding Fines, as the case may be, maintained in the Court of the said Judicial Magistrate.

Rule 623. (1) In the case of fines, the duty of checking the receipts is entrusted to the Controller General of Accounts or Treasury, as the case may be, to whom a monthly return of all fines realized, and of all remittances of fines to the Treasury, should be transmitted, by every Court having the power to impose fines.

(2) Fines which, under competent authority, are credited to any other local fund, will be excluded from this return.

Rule 624. (1) In order to secure that returns are received from every Court having such power, it will be convenient to arrange for their collection, by the head of every department in a District or a Metropolitan area, namely, the Sessions Judge or Chief Judicial Magistrate or Chief Metropolitan Magistrate or District Magistrate, or Collector, as the case may be, and their transmission by that officer. If it be more convenient for him to embody all in his own return, there is no objection to his doing so; but the collective return must be based on the records or accounts of the Courts and not as those of the Treasury, though it should be compared with the

Treasury foams before being despatched. The best means of ensuring this comparison will probably be for the Court to despatch its return through the Treasury Officer, who will certify to the agreement with his books, or will have the return corrected by the Court before he transmits it.

(2) If precautions are taken against double refunds of fines, or refunds of fines not actually paid into the Treasury, a simple memorandum of the collections of the Court, and of its remittance to the Treasury for verification with the Treasury credit, would suffice. In the absence of such precautions, a detailed list of the fines collected and paid into the Treasury must be transmitted, in order to facilitate verification in case refunds are claimed. The Forms of the return will be settled by the Controller General of Accounts.

(3) If the several Courts submit returns of fines, the returns of the realization may with advantage be despatched to the Controller General of Accounts under official seal through the said Controlling Officer. However, if this course causes delay, instead of sending the returns through the Controlling Officer, a memorandum, of the monthly credits appearing in the Treasury, may be sent directly to the Controller General of Accounts by endorsing a copy to the Controlling Officer.

(4) When fines are realized in another district, an intimation should be given by the realizing officer to the officer concerned, who should note the fact in his Fine Statement on the basis of which the return of realization of fines are to be prepared.

Rule 625.A list of returns to be sent to the Controller General of Account's office is given in Appendix III.

APPENDIX I

(See rule 589)

LIST OF REGISTERS TO BE COMPARED DAILY BY JUDGE-IN-CHARGE

For all Judicial Officers

Kept by the Accountant-

		Form No.
1.	Register of Chalans	(A) 10.
2.	Register of payment Orders	(A) 12.
3.	Treasury Pass Book	(A) 13.
4.	Register of Judicial Deposit received-Part I	(A) 14(i)
	Part II	and (ii)
5.	Register of Judicial Deposits repayment - Part I	(A) 15 (i)
	Part II	and (ii)
6.	Register of Miscellaneous Receipt	(A) 17.
7.	Clearance Register of A Deposits	(A) 16

Kept by the Cashier.

8.	Cash Book	(A) 19

9. Counterfoils of Receipts granted by Cashier for peremptory Cash receipts (A) 18.

APPENDIX II

(See rule 589)

MAGISTRATE'S DAILY EXAMINATION OF ACCOUNTS

1) Transactions at Court.

Comparison of Cashiers Cash book with the Registers of Chalans and Payment Orders.

Comparison of Treasury Pass Book with the Cash Book

(2) Transactions at Treasury

Comparison of Treasury Advice with posting therefrom in the Registers of Chalans, of Payment Orders, of Deposit Receipts and Miscellaneous Receipts.

Comparison of Treasury Advice with Treasury Pass Book.

MAGISTRATE'S MONTHLY EXAMINATION OF ACCOUNTS

1. The proper closing and totaling of all Registers.

2. Comparison of outgoing statements with office Registers.

3. Comparison of plus and minus memorandum with totals of

Registers.

4. Ascertainment and verification of outstanding Payment Orders.

APPENDIX III

(See rule 625)

LIST OF RETURNS

From the Chief Judicial Magistrate or the Chief Metropolitan Magistrate through the Treasury Officer

Extract Register of Deposit Receipts

with plus and minus memorandum,

enfaced (Rules 566 and 568) ...Monthly.

Register of Deposit Repayments (Rule 567) ...Monthly.

From the Chief Judicial Magistrate to the Accountant General's office directory.

Clearance Register of A-Deposits (Rule 569)

Statements of lapsed Deposits of his Court and of the courts subordinate to him with certificates of the Examination of "B-Deposits" enfaced (Rules 574 and 575) ... Monthly.

CHAPTER XXXI

JUVENILE COURT

Rule 626. (1) Juvenile Courts established under section 3 of the Children Act, 1974, shall be inspected by the Chief Judicial Magistrate or Chief Metropolitan Magistrate within their respective territorial jurisdictions at least once a year. The concerned Sessions Judge may also inspect such Juvenile Courts occasionally under his general supervisory power.

(2) The Sessions Judge or Chief Judicial Magistrate or Chief Metropolitan Magistrate shall inform the Juvenile Court of his intention to inspect the Court in advance and the Court shall keep itself ready for such inspection.

Rule 627. The inspection report shall contain the following particulars: -

(a) Name(s) of the Presiding Officer(s) since the last inspection and the period for which they presided over the Court.

(b) Jurisdiction of the court.

(c) Number of

(i) Juvenile delinquents,

(ii) Neglected children, dealt with during the period of inspection.

(d) Are children duly sent to the Approved Homes as provided in the Act?

(e) Is proper procedure followed in the matters of enquiry about the juvenile delinquents or the neglected children? If not, what is the Suggestion of the Inspecting Officer?

(f) Are the orders of the Juvenile Courts properly carried out by the different authorities under the Act?

(g) Is the Court sufficiently staffed?

If not, what is the suggestion of the Inspecting Officer?

(h) Is the Court-house spacious enough to accommodate the children produced before it?

(i) Are there separate arrangements for accommodating male and female children in the Court?

(j) Is police arrangement for the escort of the children to and from the Court proper and sufficient?

Rule 628. The Sessions Judge or Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, shall generally dispose of the points raised in the inspection report as far as possible and a copy thereof shall be sent to the High Court Division and the Government each for information and necessary action, if any.

Rule 629. If the Sessions Judge or Chief Judicial Magistrate or Chief Metropolitan Magistrate thinks that any matter should be brought to the notice of the Government for the proper administrative and other arrangements to be made in view of the provisions contained in the Children Act,. 1974, the same shall be done by them directly under intimation to the High Court Division.

Rule 630. The rules relating, to the 'dress of a Judicial Officer as provided in Chapter XXIX of these Rules shall be applicable to the Presiding Officer of a Juvenile Court.

Rule 631. (1) An Annual Administrative Report shall be sent by the Presiding Officer of the Juvenile Court to the Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case May be, by the 15th day of February of the calendar year following the year to which the report relates.

(2) The report referred to in sub-rule (1) shall contain, amongst others, the particulars mentioned in rule 627.

(3) The Chief Judicial Magistrate or the Chief Metropolitan Magistrate concerned shall deal with the report in such manner as he deems necessary and may bring any matter dealt with in the report to the notice of the High Court Division or the Government.

Rule 632. (1) Youthful offenders, whom the Court of Session or the Magistrate, as the case may be, does not think fit, to discharge after due admonition, or to deliver to their parents, guardians, or nearest adult relatives on the execution of bonds for good behaviour under section 53 of the Children Act, 1974, should be sent to a Certified Institute for detention on conviction under section 52 of the said Act. The period of such detention shall not be more than ten years, but in no case it shall be extended beyond the age of eighteen years of the offender.

(2) Youthful offenders should not be allowed to associate with others in the Certified Institute, if they are convicted of any unnatural

offence, or are seriously deformed or of weak intellect or subject to epileptic or other well-marked nervous diseases. The Court may also send such offender to a hospital or any other approved place for their treatment.

(3) When a youthful offender is released on probation of good conduct and committed to the care of his parent, guardian or other adult relative or other fit person or such parent, guardian, relative, under section 53 (1)(b) of the Children Act, 1974, for a period not exceeding 3 years, the Court may order that the youthful offender be placed under supervision of a Probation Officer, who shall be under the supervision and guidance of the Juvenile Court, where such Court exists or, under those of the Court of Session, where no such Court exists.

(4) If it appears to the Court, on receiving a report from the Probation Officer or otherwise, that the youthful offender has not been of good behavior during the period of probation, it may, after making an inquiry/ as it deems fit, order the youthful offender to be detained in a Certified Institute for the unexpired period of probation.

(5) Where the parent or guardian of a child complains to a Juvenile Court that he is unable to control the child, the Court may, if satisfied, order the child to be committed to a Certified Institute or an Approved Home for a period not exceeding three years and place him under the supervision of a Probation Officer.

(6) When a Juvenile Court commits a youthful offender to a Certified Institute or any Approved Home, a copy of the judgment or

order should be forwarded to the Management of such Institution and also to the Ministry of Home Affairs and Ministry of Social Welfare.

CHAPTER XXXII

RULES RESPECTING THE DELIVERY TO MILITARY AUTHORTTIES OF PERSONS LIABLE TO BE TRIED BY COURT MARTIAL UNDER SECTION 549 OF THE CODE.

Rule 633. The following rules are made under section 549 of the Code respecting the delivery to the Military Authorities of persons charged with offences under the Army Act, 1952, for which they are liable to be tried by the Court-martial under that Act.

(1) When a person subject to military law is accused of an offence for which he is liable under the Army Act, 1952, to be tried by a Court-martial, a Magistrate shall not proceed to try him, or to issue an order for his trial, or to hold an inquriy into the case, unless he is moved to do so by the Military Authorities, or is of opinion, for reasons to be recorded in writing, that he ought to proceed without being moved thereto by those authorities.

(2) When the Magistrate is of opinion that he ought to proceed without being moved thereto by the Military Authorities, he shall give notice of his intention to do so to an officer to whose command the accused person is subject, and shall not, till

the expiration of fifteen days from the date of the service of the notice on the officer, -

(a) acquit or convict the accused under sections 243, 245, 247 or 248 of the Code, or hear him in his defence under section 244 of the Code; or

(b) frame a charge against the accused under section 242 of the Code; or

(c) issue an order for the trial of the accused under Chapter XX of the Code; or

(d) make an order sending the accused for trial by the Court of Session under section 205C of the Code.

(3) If within the fifteen days, or at any time thereafter, before the Magistrate has done or made any act or order specified in sub-rule (2), clauses (a), (b), (c) or (d) of this Rule, an officer to whose command the accused is subject notifies to the Magistrate that, in the opinion of the Military Authorities, the accused should be tried by a Court-martial, the Magistrate shall stay the proceedings before himself, and if the accused is within his control and custody, deliver him, together with the statement mentioned in section 549 of the Code, to the concerned Military authority prescribed in that section.

(4) If, after a Magistrate has been moved by the Military Authorities to proceed against a person subject to military law for an offence for which that person is liable under the Army Act, 1952, to be tried by Court-martial, an officer to whose command the person

is subject notifies to the Magistrate that, in the opinion of the Military Authorities, the accused should be tried by a Court-martial, the Magistrate, if he has not, before receiving the notice, done, or made any act or order specified in clauses (a), (b), (c) or (d) of sub-rule (2), of this Rule, shall stay the proceedings before himself, and if the accused is in his power, deliver him, together with the statement mentioned in section 549 of the Code, to the authority prescribed in that section.

(5) If a person who has been delivered by a Magistrate to a Commanding Officer, under Sub-rule (3) or (4) of this Rule, for the purpose of being tried by Court-martial, is not brought to trial before a Court-martial for the offence of which he is accused, or effectual proceedings have not been taken, or have not been ordered to be taken, against him, the Magistrate shall report the circumstances to the Government in the concerned Ministry sending a copy to the Registrar of the High Court Division, whereupon the Government may take appropriate steps to ensure that the accused person is dealt with in accordance with law.

Rule 634. In case of all other persons subject to Naval or Air Force Law i.e., the Air Force Act, 1953 and the Navy Ordinance, 1961 and any similar law for the time being in force, as the case may be, shall be dealt with in the same way as provided in rule 633.

Rule 635. Notwithstanding anything contained in the foregoing rules, where it comes to the notice of a Magistrate that a person, subject to Military, Naval, Air Force or Coast Guard Law, or any

other law relating to the Armed Forces for the time being in force, has committed an offence, proceedings in respect of which ought to be instituted before him and that the presence of such person cannot be procured except through military, naval, air force, or coast guard authorities, the Magistrate may by a written notice require the commanding officer of such person either to deliver such person to a Magistrate to be named in the said notice for being proceeded against according to law, or to stay the proceedings against such person before the Court-martial or the Coast Guard Court, as the case may be, if instituted, and to make a reference to the Government for determination as to the Court before which the proceedings should be instituted.

Rule 636. Where a person, subject to Military, Naval, Air Force, or Coast Guard Law or any other law relating to the Armed Forces for the time being in force has committed an offence which in the opinion of competent military, naval, air force or coast guard authority, as the case may be, ought to be tried by a Magistrate in accordance with the criminal laws applicable for civilian persons or where the Government has, on a reference mentioned in rule 635, decided that proceedings against such person should be instituted before a Magistrate, the commanding officer of Such person shall after giving a written notice to the Magistrate concerned, deliver such person under proper escort to that Magistrate for trial and decision.

CHAPTER XXXIII

MISCELLANEOUS INSTRUCTIONS

Rule 637. It has come to the notice of the Supreme Court during inspection that in cases where petitions of complaint are sent by the Magistrates for inquires or investigations under section 202 of the Code, and inquiry or investigation reports are not transmitted within the given time-frame by the persons concerned, the Magistrates of the cognizance Courts sometimes take the next step under section 203 of the Code by dismissing the petitions of complaint.

Such practice is absolutely illegal and does not come within the scope of section 203 of the Code. For no fault of the aggrieved complainants, their complaints are being dismissed. Section 203 of the Code contemplates consideration of a complaint on the basis of the statements of the complainant and his witnesses, if any, recorded under section 200 of the Code or the result of the inquiry or investigation in order to arrive at a decision whether there is sufficient ground to proceed or not. The Magistrate should record such decision in the order-sheet with reasons in brief. It must be borne in mind that non-submission of inquiry or investigation report cannot be a ground for dismissal of the complaint under section 203 of the Code.

The concerned Magistrate may, in case of non-submission of inquiry or investigation report on some consecutive fixed dates, either change the inquiry or investigating officer, or he himself may ascertain the prima facie truth or falsehood of the complaint

and take decision as to whether cognizance should be taken or the complaint should be dismissed under section 203 of the Code.

Note. Cognizance Courts of the Magistrates should keep lists of competent and neutral persons, who are capable of holding. such enquiry or investigation within the given time-frame. Those persons should be given a clear understanding that they are bound under the law to carry out the orders of the Court in time. However, before taking any step, the Magistrate shall have to be satisfied that the order appointing the inquiry or investigating officer has been despatched from the-Court and received by the concerned person in time.

Rule 638. (1) Before passing an order of acquittal under section 24 of the Code, the Magistrate should ascertain that summons was issued at the time of taking cognizance on complaint. If warrant of arrest is issued on complaint, or if it is a police case, section 247 of the Code has no application at all. Attention is also drawn to the fact that on the date fixed for hearing of such complaint case, if the complainant does not appear and the Magistrate does not adjourn the hearing of the case, an order of acquittal shall be passed under section 247 of the Code. The date on which appearance of the complainant is not necessary, the Magistrate should not generally apply this provision in passing an order of acquittal in an unreasonable manner.

Proviso to section 247 of the Code should be kept in view while passing orders there under.

(2) An order stopping a proceeding and releasing the accused at any stage without pronouncing judgment under section 249 of the Code should be passed in a police case only. This power should be used sparingly and it cannot be invoked in a complaint case. When the Magistrate is fully satisfied that the prosecution witnesses are not available on so many consecutive dates even after his best endeavour by exhausting all processes of the Court issued and served properly in time and there exists exceptional and unusual circumstances preventing the court from proceeding with the case, this power can be exercised.

Once the Magistrate has stopped the proceeding and released the accused, there is no scope for revival of the case by him as decided in the case of Niamat Ali Sk & others Vs. Begum Enayetur Noor & others reported in 42 DLR (AD) 250. So the Magistrates are to be very careful in exercising the power under section 249 of the Code.

(3) For the Sessions Judges, when all processes to compel attendance of the prosecution witnesses are exhausted and prosecution witnesses have failed to appear, an order of acquittal may he recorded under section 265H of the Code to get rid of unnecessary dragging of the sessions cases for years together.

The principles enunciated in the case of Kamar Ali Vs. Abdul Mannaf reported in 39 DLR (HCD) 320 and in the case of Md. Taher uddin Vs. Abul Kashem & others reported in 37 DLR (HCD) 107 may be followed in dealing with sessions cases in this regard.

Rule 639. Magistrates and other officers entrusted with the disposal of criminal business should refrain from the objectionable practice of transacting judicial business at their private residences.

Rule 640. Under the provisions of section 238 of the Code, it is unnecessary to frame separate charges in respect of minor offences of the same class included in an offence of a graver character with which an accused person is charged.

Rule 641. During the trial of a case under Chapter XX of the Code, if it appears to the Magistrate that a witness is giving false evidence justifying initiation of criminal proceedings against him, the Magistrate shall exercise a sound discretion in taking down his evidence under section 359 of the Code.

Rule 642. The Chief Metropolitan Magistrates and the Chief Judicial Magistrates should satisfy themselves from time to time by examination of the records of summary trials that the law regarding such trials is properly observed and specially that the Magistrates do not exceed their jurisdictions in this regard.

Rule 643. Where the accused is charged with an offence punishable with death, the Court may, in case of absence of the accused or in other special circumstances, assign an Advocate of the local Bar for his defence. A copy of the Court's order, in such case, shall be transmitted to the Solicitor of the Ministry of Law, Justice and Parliamentary Affairs and to the concerned District Magistrate for information and necessary action.

Rule 644. Magistrates should not deprive the indigent and vulnerable litigants of legal aid and other legitimate privileges; to which they are entitled under any law for the time being in force.

Rule 645. (1) Any order passed under section 565 of the Code shall be notified to the Superintendent of the Jail by the attachment of a copy thereof to the warrant issued under section 383 of the Code.

(2) Before release, a convict shall, upon being required to do so by the Superintendent of the Jail in which he is confined or by any person authorized in this behalf by the Superintendent, notify the Superintendent or any person authorized by him, as the case may be, the place in which he intends to reside after his release.

(3) If, after the seventh day following his release, a convict is residing in any place other than that notified by him in accordance with sub-rule (2), he shall, within nine days after the date of his release, attend in person at the concerned police-station or outpost within the local limits of which he is residing and notify his place of residence to the concerned Officer-in-Charge.

Rule 646: (1) If, after taking up his residence in any place notified in accordance with any of these rules, a convict intends to change his residence, he shall, if the place to which he intends to 'change his residence is situated within the local limits of the Police Station or outpost within which he is at the time residing, at least three, and, in any other case, at least seven days before he intends to leave his notified place of residence, attend in person at such Police Station or outpost and notify to the Officer-in-Charge, the place to which he intends to change his residence

and the date on which he intends to leave his present notified residence.

(2) If, after the seventh day following the date notified in accordance with sub-rule (1), a convict is residing in any place including his last notified place of residence other than that notified by him in accordance with sub-rule (1) as his intended place of residence, he shall, within nine days after the date so notified, attend in person at the Police Station or outpost within the local limits of which he is for the time being residing and notify his place of residence to the Officer-in-Charge thereof.

(3) If a convict intends to absent himself temporarily for one or more nights from his notified place of residence, he shall, if he does not intend to leave the local limits of the Police Station or outpost within which he is at the time residing, not later than the first, and in any other case, not later than the third day before his. departure from his notified place of residence, attend in person at such Police Station or outpost and notify the Officer-in-Charge his intention to absent himself together with the place or places to which, he intends to proceed and the probable dates of his arrival thereat and departure therefrom respectively.

Rules Framed under section 35 of the Court Fees Act, 1870 (Act X of 1870)

Rule 647. The following rules shall apply to processes issued, served and executed by the Magistrates' Courts, whether under the orders of the said Courts or of a Court of Session.

Rule 648. These rules shall not apply to the service and execution of processes in the case of cognizable offences and no fee shall be charged for the issuance of a process in a case of cognizable offence, whether the case be instituted on complaint or not.

Note. The question whether fees are chargeable in any particular case should be determined by the Magistrate with reference to the Schedule II of the Code or any other laws relating to the offences in respect of which he directs issuance of processes, whatever may be the section or law quoted in the complaint

Rule 649. (a) As regards recovery of the costs of processes in cases relating to non-cognizable offences resulting in conviction, the Magistrate shall be guided by the provisions of section 546A of the Code.

(b) In revision cases arising out of non-cognizable offences, process fees may be levied for the issuance of notices to the opposite parties, but no such fees are leviable under the Court Fees Act, 1870, or under the rules framed by the High Court Division thereunder, in respect of processes issued in Miscellaneous proceedings under the following Chapters of the Code, namely, Chapter VIII (Security), Chapter X (Public Nuisances), Chapter XII (Disputes as to Immovable property), Chapter XXXV (Proceedings in case of certain offences affecting the administration of Justice) and Chapter XLIII (Disposal of Property).

Rule 650. The fees for serving and executing processes shall be charged at the following rates, namely: -

(1) Warrant of Arrest	Tk.
For the warrant in respect of each person named therein.	5.00
(2) Summons	5.00
For the summons in respect of oneperson, or of the first two personsresiding in the same village or mouza In respect of every additional person named therein	2.00

Note. - Streets of a Metropolitan area or a Municipal town falling within the jurisdiction of a Police Station should be taken to constitute one mouza or village.

(3) Proclamation for absconding accused under section 87 of the Code	Tk. 5.00
(4) Proclamation for witnesses not attending (Section 87)	5.00
(5) Warrant of attachment (except warrants under section 386 of the Code of Criminal Procedure)	
For the Warrant	
Where it is necessary to place officers in charge of property attached; for each officer so employed. per diem.	10.00

(6) Warrant for search under sections 96, 97, 98 & 100 of the Code.	
For the warrant in respect of each place	5.00
(7) Written order.	
For the order in respect of one person or of the first two persons residing in the same village or mouza.	5.00
In respect of every additional person named therein.	2.00
(8) Injunction (if connected with any non-cognizable offence only).	
For the injunction in respect of one person or of the first two persons residing in the same village or mouza.	5.00
In respect of every additional person named therein.	2.00
(9) Notice -	
For the notice in respect of one person or of the first two persons residing in the same village or mouza.	5.00
In respect of every additional person named therein	2.00

Rule 651. Notwithstanding anything contained in rule 650, no fee shall be chargeable for serving or executing: -

(1) any process such as a notice, summons or warrant of arrest which may be issued by any Court of its own motion solely for the purpose of taking cognizance of and punishing any person for any act done, or words spoken in contempt of its authority or of taking action under sections 195, 476 and 476A of the Code;

(2) any process issued for the second time in consequence of an adjournment made otherwise than at the instance of a party;

(3) any copy of summons, order, proclamation or other process posted in a Court-house or in the office of the Collector;

(4) any order intimating withdrawal of attachment or directing restoration of attached property to the person from whose custody it was seized or its owner or recalling any process issued by the Court; and

(5) any order directing the Officer-in-Charge of a Jail to detain or release a person committed to his custody.

Rule 652. (1) No fees shall be charged for fresh service or execution of processes in cases where the parties concerned are not in any way liable for not being served or executed.

(2) If in any such case, the Presiding Officer of a Court is satisfied upon such enquiry as he may consider necessary that the

failure or want of service or execution was due to the neglect of duty or any improper conduct on the part of the process-serving agent, fresh process should be issued, if required by the party, and in that case, the Presiding Officer shall direct the agent at fault to bear the costs incurred in the fresh service or execution.

Rule 653. No fee shall be chargeable in advance on any process of a Criminal Court in any case where the prosecution is on the part of the Government or any person who by dint of a Court's order is allowed to prosecute free of cost, but it shall be competent for any Magistrate in such a case if the accused is convicted, to order that such fees shall be paid by the accused or any of them in like manner as if such fees had been paid by the prosecutor at the first instance.

Rule 654. Costs awarded under section 546A of the Code and compensation awarded under section 250 and 545 of the said Code shall be realized by Magistrates of their own motion and without payment or recovery of process fees.

Rule 655. (1) No process which comes within the operation of rule 650 shall be drawn up for service or execution except upon an application made to the Court for that purpose in writing on a document bearing upon its face stamps to the amount prescribed for serving or executing the process.

(2) The application mentioned in sub-rule (1) may, however, at the option of the party making it be included in the petition by which he moves the Court to order the process to issue, but in that

case, the petition must bear the requisite stamps for the process fee in addition to the stamps, if any, required for its own validity.

Rule 656. When a process having been issued for service under some special arrangements for an absentee witness, the witness afterwards appears and the Court is of opinion that he concealed himself to avoid the service of a warrant upon him, it may order the witness to pay the cost of the service of such special process.

Rule 657. (1) In the localities only where and for the periods of the year during which travelling except by boat is impracticable, the fees chargeable for the service of processes shall be increased by such percentage not exceeding 80 (eighty) per cent as may be necessary to cover the additional cost of boat hire or ferry toll for journeys in watery areas.

(2) The percentage of surcharge over the fees ordinarily leviable should be reduced when the realization of the higher amount. is found to exceed the additional cost incurred.

Note 1. if it is found that the total annual realization of boat hire exceeds the amount necessary to 'meet the costs of boat hire in the course of the year, the discretion given by this rule should be exercised by the concerned Magistrate or the Judge by reducing the percentage of surcharge in such a way as to make the total annual realization on account of boat hire equal as nearly as possible to actual expenditure for that purpose. The percentage may be fixed at different rates for different areas according to local conditions and cost of boat hire.

Boat hire fees shall be entered in column 7 of Form No. (R) 9 for the purpose of ascertaining whether total annual realization of boat hire in court-fees covers the total annual expenditure on account of boat hire.

Note 2. The fees leviable from parties on account of boat hire should be realized in court-fee stamps affixed to a. separate sheet of paper containing the number, etc. of the case in which the fees are filed and the name, description and residence of the persons on whom the processes are to be served.

Note 3. The process-servers' boat hire passed under this rule should alone be included under the head "Process-serving Charges".

Rule 658. When a Judicial Officer doubts the genuineness of a stamp filed before him, the stamp should be forwarded to the Collector of the District, who will examine it and satisfy himself, as to its character, and report its result to the Officer sending it. Care should be taken to retain a copy of the document bearing the disputed stamp before sending it to the Collector.

Rule 659. (1) The Judge-in-Charge of the Nazarat at every station shall, in consultation with the Presiding Officers of other Courts and after making any inquiry he may deem fit, prepare a list of areas, localities or villages within the jurisdiction of the Nazarat where and for the periods of the year during which travelling except by a boat is impracticable together with the rates of surcharge to be levied on account of boat hire.

(2) Areas, localities or villages to which journey may be made without necessity of a boat shall be excluded from the list.

(3) A copy of the list when approved by the Judge-in-Charge shall be sent by him to each Court at the station and the Secretaries of the local Bar Associations in sufficient time before the advent of the period from which the surcharge is to be levied.

(4) The list should be altered or modified from time to time when the state of the country renders it necessary and all changes should be notified in the above manner.

(5) In the localities which are not for the time being subject to rule 657when, for the service of any process a peon has to cross a ferry, then the amount, if any, legally payable as toll shall be paid by the Court executing such process from its permanent advance.

(6) The permanent advance mentioned in this rule is the special permanent advance sanctioned by the Government for the purpose of these rules.

Rule 660. (1) In a case in which the process is to be served in the jurisdiction of another Court, the proper fee chargeable under rule 650 read with rule 657 shall be levied in the manner stated therein, on the application for the transmission of the process to that Court and a note shall be made on the process stating that this has been so done.

(2) A Court which receives from another Court, whether in the same district or not, a process bearing a certificate that the proper fee has been levied shall cause it to be served without further charge.

Note. The fees paid in pursuance of these rules must in all proceedings be deemed and treated as part of the necessary and proper costs of the party who pays them.

Rule 661. The records of disposed of cases received by the Record Keeper shall be retained in the Record Room and shall not be allowed to pass out of the custody of the Judge-in-Charge of the Record Room, except when called for by superior judicial authority. It is improper that records of the Court of Justice should be sent to any other public officers or functionaries. If a reference to their contents is required, the proper procedure is ordinarily to obtain copies of the requisite papers.

Rule 662. The Record Rooms of Criminal Courts are not open to the public generally, but Judicial Officers of the district, including Court-support staff may, with the permission of the Sessions Judge or Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, be allowed to enter the Record Rooms, and in the presence of the respective Record Keepers or one of their Assistants deputed for the purpose, to examine the record of a specified case, provided that such entry is made pursuance of a public purpose.

Rule 663. When, in the course of proceedings in a Criminal Court, it becomes necessary to refer to the contents of public

documents deposited in other Courts, the ordinary procedure is to require copies of them to be filed. It frequently happens, however, that in the course of a criminal trial, the production of an original record becomes necessary. In such a case, the Sessions Judge or the Magistrate making such requisition, however, is required to state therein that the production of the original is necessary showing reasons therefore. If the Court receiving the requisition is of opinion that the reason given for requiring the production of the original record, instead of a copy, is insufficient, it should nevertheless comply therewith keeping a note in the office.

Note. This course should also be followed when no reason is given in the requisition. If the record required is that of an appeal pending before the Sessions Judge or Chief Judicial Magistrate or Chief Metropolitan Magistrate, the requisition-receiving Court should intimate the fact to the Court making the requisition.

Rule 664. The Sessions Judges should not, without permission previously obtained from the High Court Division, issue any General Instructions or Circular Orders of any kind for the guidance of the Magistrates, unless empowered by any law.

Rule 665. The Chief Judicial Magistrates and the Chief Metropolitan Magistrates are prohibited from issuing general orders in the form of Circulars on judicial matters to the Magistrates subordinate to them. If there be any matter connected with the administration of criminal justice in their 'respective Districts or Metropolitan areas, which requires the issuance of a general order for the information and guidance of the Courts

subordinate to them, they should submit such order for the confirmation and approval of the High Court Division, without which no such order should be issued.

Rule 666. The Judicial Officers should avoid as far as possible to become the hosts or guests of those who are interested in cases, civil or criminal, which might eventually come up for their decisions and this would help them to avoid all possible imputations of bias and prejudice on the part of litigants.

Rule 667. The attention of all Judicial Officers is drawn to Appendix II which deals with the code of conduct to be observed by them.

Rule 668. (1) An employee who has completed three years in the same post in the office of the: Sessions 'Judge or Chief Judicial Magistrate or Chief Metropolitan Magistrate becomes liable to be transferred to any other equivalent or similar-post in the Judgeship or Magistracy, as the case may be.

(2) The High Court Division reserves the right to transfer any such employee at any time, before the completion of his tenure as laid down in sub-rule (1) of this rule, whenever in the interests of the public service, his transfer is desirable before the prescribed period.

Note. In exceptional circumstances, the Sessions Judge or Chief Judicial Magistrate or Chief Metropolitan Magistrate, as the case may be, is at liberty to retain any employee in the same post even beyond the prescribed period for the sake of smooth functioning of the court concerned.

Rule 669. (1) The Sessions Judge or the Chief Judicial Magistrate or the Chief Metropolitan Magistrate should from time to time consider the question of transferring the employees from one station to another in the district whenever they have been in the same station or in the same post for an unduly long period.

(2) If it is found desirable to transfer an employee from a station but there is no corresponding post of the same grade in any other place within the district, the matter should be reported to the High Court Division, so that his transfer to another district may be effected.

Note. For the purpose of this rule, any period exceeding five years should be considered as unduly long period.

Rule 670. No employee holding a responsible position and dealing with accounts and cash is to be allowed to hold his post uninterruptedly for an indefinite period. After holding it for not more than five years, he must be transferred to another equivalent post.

Rule 671. (1) Taking of leave for a period of not less than six months at a time after holding such posts for five years continuously may be deemed as interruption provided another employee served against the post and the authority is satisfied that no exception could be taken to the conduct of the employee on leave during the term he held the office. Reappointment to the same post should, however, be avoided as far as possible.

(2) Transfer under the rule may be to a post under another Court in the same or different station, or to a post under the same Court connected with the keeping of accounts or cash within the district.

Rule 672. Judges and Magistrates of all grades shall follow the Government Servants' Conduct Rules, 1979 in respect of lending and borrowing money, receipt of complimentary or valedictory addresses, and the like.

Rule 673. No Judicial Officer shall be allowed to practice as an Advocate during the term of any leave that he may obtain from the High Court Division.

Rule 674. A member of the Bangladesh Judicial Service should not hold any other public office. He should not also hold any private office unless he is authorized in that behalf by any legal instrument subject to approval of the High Court Division. It is also undesirable that Judicial Officers should socialize themselves in any local affairs.

Rule 675. In places where the Courts are built of inflammable materials, sufficient precaution should be taken for the storage of the records of pending cases and other valuable documents in safer places within the precincts of the Courts.

Rule 676. The Process Servers employed in the service or execution of processes of the Criminal Courts shall be entitled to get remunerations or allowances as admissible under the rules and the Circulars issued from time to time by the Government.

Rule 677. No Process Server shall be appointed or retained for the service of processes who cannot read and write efficiently or who is not capable of fully and intelligently carrying out the duties of a process server.

Rule 678. The Judge-in-Charge of the Nazarat shall, as occasions require, take steps for imparting training to the Process Servers on the rules regarding service and execution of processes.

Rule 679. Vacancies occurring in the posts of Process Servers at any station shall ordinarily be filled up either by promotion or by fresh appointment subject to the concerned rules made by the Government from time to time.

Rule 680. (1) The Sessions Judge of every Session Division shall ascertain the average number of original processes issued from his Own Cour and from each of the Courts subordinate thereto during the immediately preceding three years.

(2) The process-servers to be employed in each Session's Division shall be sufficient in number for the service or execution of the original processes so received.

Rule 681. The Sessions Judge, the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, may request the Government for the appointment of such number of Process Servers as required for a Sessions Division as may suffice for the service or execution of all processes issued. From time to time, the

Sessions Judge, Chief Judicial Magistrate or Chief Metropolitan Magistrate shall apportion such Process Servers among different stations as may appear necessary according to the number of original processes to be served or executed.

Rules regarding Touts

Rule 682. Any person who acts as a clerk of an Advocate without a license granted to him in accordance with these rules, shall be deemed to be a tout within the meaning of section 3 of the Touts Act, 1879.

Rule 683. When a person has legally been employed as a licensed clerk of an Advocate, his name shall appear in the Register in the Form-A as shown below. At the beginning of each calendar year, the licensing authority shall send a copy of the Register with all subsequent additions and alterations made therein to the Courts, where the clerk works for his Advocate.

Form A

Register of Registered Clerks of Advocates

.....Bar Association

Sl. No.	Name	Fathers Name	Residence	Date of registration	Name of Advocate under whom employed.	Courts in which the Advocate is authorised to practice.	Date of removal from this register	Remarks

1	2	3	4	5	6	7	8	9

Note. Not more than two or three names should be entered on each page of the Register and as each clerk renews his card from year to year, the date of such renewal should be entered on the same page in column 6.

Rule 684. No Advocate shall engage any person as a clerk unless he is registered in the manner contemplated by the relevant rules of the Bangladesh Legal Practitioners and Bar Council Order and Rules, 1972.

Rule 685. Each registered clerk having valid licence must carry his identification card in the prescribed Form during his duties in the Court and its attached departments. On query by any authorized officer of the Court, in case of any doubt, the Advocates' clerks are bound to show their cards, which should be prepared and maintained in the Form-B as shown below.

Form B

FORM OF CARD FOR ADVOCATES' CLERKS

(Not transferable)

Registered Clerk's Card No .....

No .....to correspond.

With No..... in Register.

This is to authorize.....son of.....of village.....Upazila…….Police.....Station.....District. .....

now residing at.....to work a.....the.....registered clerk of Mr. .....

Advocate during the year.....

Date..... 20..... as…….

Seal of the Bar Association Registering Authority

To be produced when required and returned for renewal on .....

Forms prescribed under section 7 of the Oaths Act, 1873 (Act No. X of 1873)

Rule 686. (1) The following Forms of oaths and affirmations are prescribed by the High Court Division under section 7, Act X of 1873: -

(1) Oath for witnesses

I swear that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false. So help me God.

(2) Affirmation for witnesses

I solemnly declare that the evidence which I shall give in this case shall be true, that I will conceal nothing and that no part of my evidence shall be false.

(1) Oath for Interpreters

I swear that I will well and truly interpret, translate and explain all questions and answers and all such matters as the Court may require me to interpret, translate and explain. So help me God.

(2) Affirmation for Interpreters

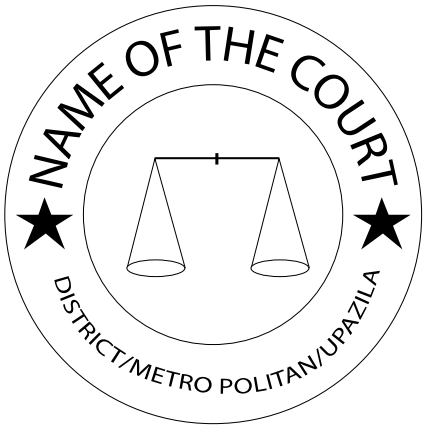
I solemnly declare that I will well and truly interpret, translate and explain all questions and answers, and all such matters as the Court may require me to interpret, translate or explain.

(2) The same Form shall be used in all criminal cases.

Rule 687. Christian witnesses and interpreters to whom oaths are administered, are to be sworn upon the New Testament.

In other cases, the oaths are to be administered upon such symbol or accompanied by such act, as may be usual, or as such witness, or interpreter may acknowledge to be binding on his conscience.

Rule 688. Each Criminal Court shall have an official seal in circular shape of 6 c. m. diameter having the emblem of a Scale in the centre with two stars opposite to each other intervening the name of the Court on the upper portion and the name of the District/Metropolitan area/Upazila inscribed there in the lower portion as shown below: -



Rule 689. When there are more than one Courts of the same class at one station, the Judicial Officers presiding over them may be designated as follows, namely, Judicial Magistrate, First Court, Second Court, Third Court, etc.

CHAPTER XXXIV

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

REPEAL AND SAVINGS

Rule 690. (1) The General Rules and Circular Orders (Criminal) which were in force immediately before the enforcement of these rules are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the rules so repealed shall be deemed to have been done or taken under these rules.

Gopal Chandra Paul | Bench Assistant | gopalchandrapaul@yahoo.com

Appendix II

(See Rule 667)

বিচার বিভাগীয় কর্মকর্তাদের জন্য অনুসরণীয় নীতিমালা

বাংলাদেশ সুপ্রীম কোর্টের অনুমোদনক্রমে আইন ও বিচার মন্ত্রণালয় কর্তৃক মুদ্রিত ও প্রকাশিত (১৯৮৮)

বিচার বিভাগীয় কর্মকর্তাদের জন্য অনুসরণীয় নীতিমালা

সুষ্ঠু ও ন্যায়বিচারের স্বার্থে আদালতসমূহের সৃষ্টি হইয়াছে। প্রচলিত আইন ও ন্যায়নীতির ভিত্তিতে পক্ষগণের মধ্যে বিরোধ নিষ্পত্তি করাই সকল বিচারকগণের প্রধান দায়িত্ব। এই দায়িত্ব পালনে বিচারকগণ প্রধানত আইনের বিধান অনুসরণ করিয়া চলিবে। কিন্তু শুধুমাত্র আইন অনুসরণ করাই যথেষ্ট নয়। বিচারকগণ নিরপেক্ষ এবং প্রভাবমুক্ত এরূপ একটি ভাবমূর্তি জনসাধারণের নিকট তুলিয়া ধরিতে হইবে। সেই উদ্দেশ্যেই তাহাদের কতগুলি নীতিমালা অনুসরণ করিয়া চলিতে হইবে।

১। বিচারকগণ অত্যন্ত সচেতনতার সহিত আদালতের কার্যs পরিচালনা করিবেন এবং অবশ্যই সময়ানুবর্তিতা ও নিয়মানুবর্তিতা মানিয়া চলিবেন। তাঁহারা নির্দিষ্ট সময়ে অফিসে আসিবেন, এজলাসে বসিবেন এবং নিয়ম ও বিধি মোতাবেক আদালতে বিচারকার্য পরিচালনা করিবেন। তাঁহারা তাঁহাদের দৈনিক নির্ধারিত মামলাসমূহের বিচার নিষ্পত্তি বিষয়ে যথাসাধ্য পরিশ্রমী হইবেন।

২। বিচার অঙ্গনকে নিরপেক্ষভাবে যুক্তিনির্ভর ন্যায় সঙ্গত থাকিয়া জনগণের শ্রদ্ধা অর্জন করিতে হইবে এবং তাঁহাদিগকে বিচারকার্য পরিচালনায় দ্ব্যর্থহীনভাবে বাংলাদেশের সংবিধান ও আইনের সার্থক প্রয়োগ ও প্রতিফলন ঘটাইতে হইবে।

৩। প্রত্যেক বিচারককে স্মরণ রাখিতে হইবে যে, বিচারালয় একটি পবিত্র স্থান। আদালতে ধৈর্যের সহিত ভাবগম্ভীর পরিবেশে রক্ষা করিয়া মামলার শুনানিকার্য পরিচালনা করা বিচারকগণের জন্য অত্যন্ত প্রয়োজনীয়। প্রত্যেক বিচারককে ইহাও লক্ষ্য রাখিতে হইবে যাহাতে আদালতের কোনো স্থানে আইন ও নীতিবিরোধী বা আদালতের মর্যাদাহানিকর কোনো কার্যকলাপ সংঘটিত না হইতে পারে।

৪। একজন বিচারককে কেবলমাত্র দায়িত্ব পরিচালনার ক্ষেত্রে নয় বরং ব্যক্তিগত জীবনেও সত্যনিষ্ঠ ও আদর্শবান হইতে হইবে। ব্যক্তিগত কারণে বা স্বার্থে ক্ষমতার অপব্যবহার করা একজন বিচারকের পক্ষে সম্পূর্ণ অনুচিত। সব অবস্থায়ই নিরপেক্ষতা অক্ষুণ্ন রাখিতে হইবে। বিচারকগণকে তাঁহাদের পোশাক-পরিচ্ছদের ক্ষেত্রে তথা তাদের আচরণের ক্ষেত্রে অবশ্যই শালীনতা বজায় রাখিতে হইবে।

৫। আইন বিষয়ে বিচারকগণের সর্বদা ধৈর্য্য ও পরিশ্রমের সঙ্গে জ্ঞান অর্জন করা উচিত। ঘটনার সহিত আইনের সুষ্ঠু প্রয়োগের মাধ্যমে তাঁহারা বিচারকার্য পরিচালনা করিবেন। তাঁহাদিগকে ঘটনার সত্যতা অনুসন্ধানের ক্ষেত্রে সাক্ষ্য-প্রমাণ ও সাক্ষীদের জবানবন্দি, জেরা ইত্যাদি লিপিবদ্ধ করিবার সময় যথেষ্ট যত্নবান হয়ে ধৈর্যশীল হইতে হইবে।

৬। বিচারকগণ তাঁহাদের আদালতসমূহ এইরূপে সংগঠিত রাখিবেন যেন বিচারকার্য সুষ্ঠুভাবে সংঘটিত হয়। আদালতের কোনো কর্মচারী ও সহকারী তাঁহাদের কাজে অমনোযোগী হইলে বা অন্যায় আচরণ করিলে সে ব্যাপারে বিচারকগণ আইনানুগ ব্যবস্থা নিবেন। কর্মচারীগণের কোনো ত্রুটির কারণে কেউ যাতে কোনো অসুবিধার সম্মুখীন না হয় সেদিকেও বিচারকগণের অবশ্যই সজাগ দৃষ্টি রাখিতে হইবে।

৭। বিচারকগণ অবশ্যই আইনজীবীদের সাথে সৌজন্যমূলক ব্যবহার করিবেন এবং তাঁহাদের অধীনে কর্মরত কর্মকর্তা ও কর্মচারীগণ যাহাতে বিচারপ্রার্থী জনগণ, আইনজীবী, সাক্ষী প্রভৃতি ব্যক্তিগণের সঙ্গে সদ্ব্যবহার করে সেদিকে সতর্ক দৃষ্টি রাখিবেন।

৮। বিচারকগণ যতদূর সম্ভব সভা-সমিতি, বিবাহ ও অন্যান্য সামাজিক আচার-অনুষ্ঠানে যোগদান থেকে বিরত থাকিতে চেষ্টা করিবেন এবং বিশেষত যে সকল সামাজিক অনুষ্ঠানে যোগদান করিলেই তাঁহাদের সহিত মামলায় জড়িত পক্ষগণ তথা স্বার্থসংশ্লিষ্ট ব্যক্তির সহিত সংযোগ ঘটিতে পারে এইরূপ আচার-অনুষ্ঠানে যোগদান করা হইতে অবশ্যই বিরত থাকিবেন। তাঁহাকে অন্যান্য সাধারণ ব্যক্তি হইতে স্বতন্ত্রভাবে জীবন যাপনে অভ্যস্ত হইতে সচেষ্ট হওয়া উচিত।

৯। বিচারক সকল দল ও মতপার্থক্যের ঊর্ধ্বে থকিবেন এবং কখনো দলগত কারণে প্রশংসা ও জনপ্রিয়তা অর্জনের জন্য প্রভাবিত হইবেন না। যে-সকল মামলায় বিচারকের কোনো আত্মীয় বা বন্ধুবান্ধব জড়িত আছেন বা তাঁহাদের স্বার্থ জড়িত আছে সে-সকল মামলার বিচার করা তাঁহার পক্ষে সঙ্গত নয়। কোনো ব্যক্তি বিচারককে প্রভাবিত করতে পারেন বা সুপারিশ করতে পারেন এমন কোনো ধারণা সৃষ্টি হওয়ার সুযোগ দেওয়া বিচারকদের উচিত নহে।

১০। বিচারকালে অযথা কালক্ষেপণ রোধের উদ্দেশ্যে এবং বক্তব্য পরিষ্কারভাবে অনুধাবনের জন্য আইন অনুযায়ী সুষ্ঠুভাবে শুনানি পরিচালনার স্বার্থে প্রয়োজন হইলে বিচারক যথোপযুক্ত সময়য়ে হস্তক্ষেপ করিবেন বা উপদেশ দিবেন। তাঁহাকে সবসময় মনে রাখিতে হইবে যে, শুনানিকালে অযৌক্তিক বাধাদান, অধৈর্য হওয়া বা সাক্ষীর প্রতি আক্রোশ মনোভাব লইয়া তাঁহাকে জেরা করিবার কাজে অংশগ্রহণ অনেক সময় সত্য প্রতিষ্ঠার পথে অন্তরায় হইয়া দাঁড়ায় এবং বিচারকার্য ব্যাহত হয়। সকল বিতর্কের ঊর্ধ্বে থাকিয়া তাঁহাকে স্বীয় দায়িত্ব পালনে সচেষ্ট হইতে হইবে।

১১। বিচারকগণ কখনও কোনো অবস্থাতেই মামলার কোনো পক্ষ, আইনজীবী ও স্বার্থ সংশ্লিষ্ট ব্যক্তির নিকট হইতে প্রত্যক্ষ বা পরোক্ষভাবে কোনো উপহার বা উপঢৌকন

গ্রহণ করিবেন না বা অন্যরূপ কোনো সাহায্য নিজের বা পরিবারবর্গের কারো জন্য গ্রহণ করিবেন না।

১২। বিচারকগণ আইন প্রয়োগকালে আইন সম্পর্কিত ভুলত্রুটি অনুধাবন করিবার ক্ষেত্রে অধিক সুযোগ পাইয়া থাকেন। সুতরাং তিনি ইচ্ছা করিলে জনস্বার্থে ও ন্যায়বিচারের স্বার্থে আইন সম্পর্কিত ভুল ত্রুটিসমূহ দূর করিবার জন্য সংশ্লিষ্ট কর্তৃপক্ষকে যথাযথ পরামর্শ দিতে পারেন।

১৩। বিচারকার্যের সহিত সঙ্গতিপূর্ণ নয় এরকম কোনো দায়িত্ব বিচারকগণের গ্রহণ করা সমীচীন নয় যাহা তাহার নিজ কর্তব্য ও দায়িত্ব পালনের ক্ষেত্রে মনোযোগ বিনষ্ট করে এবং সুষ্ঠু বিচার ও প্রশাসন কার্যে বিঘ্ন সৃষ্টি করিতে পারে। বিচারকগণের ব্যক্তিগত বা সামাজিক সম্পর্ক যেন কোনো বিচারকার্যে নিরপেক্ষতা প্রভাবান্বিত করিতে না পারে সেদিকে সতর্ক দৃষ্টি রাখা উচিত।

১৪। বিচারকগণ জনসমক্ষে রাজনৈতিক দলসমূহের ঊর্ধ্বে থাকিবেন। তাঁহাদের কথাবার্তা বা আচার-আচরণ যেন কোনো দল বা মতাদর্শের পক্ষে বা বিপক্ষে না যায়। তাঁহারা কোনো রাজনৈতিক বক্তৃতা প্রদান করিবেন না বা রাজনৈতিক দল বা রাজনীতির সঙ্গে সম্পর্কিত কোনো প্রতিষ্ঠানের সভায়, প্রচারণায় বা কর্মকাণ্ডে অংশগ্রহণ করিবেন না। তাঁহারা রাজনীতি সম্পর্কিত বা বিতর্কিত কোনো বিষয়ের উপর পত্রপত্রিকায় কোনো কিছু লিখিবেন না।

১৫। বিচারক বিচার্য বিষয়ে কখনও এমন কোনো ব্যক্তিগত সাক্ষাৎকার, বক্তব্য, শুনানি বা পত্রালাপের প্রশ্রয় দিবেন না, যাহা বিচারকার্যে প্রভাব বিস্তার করিতে পারে। বিচার্য বিষয়ে বক্তব্য শুনানি উভয়পক্ষের উপস্থিতিতে হওয়া বাঞ্ছনীয়।

১৬। বিচারকের প্রতিটি কার্যক্রম ও সিদ্ধান্ত যুক্তিসঙ্গত হওয়া উচিত এবং কৌঁসুলিদের উপস্থাপিত প্রাসঙ্গিক বক্তব্য পাশ কাটাইয়া যাওয়া উচিত নয়। যুক্তি ও আইনের দ্বারা উহা মোকাবেলা করিতে হইবে। যুক্তিবিহীন সিদ্ধান্ত বর্জন করিয়া তাঁহার নিরপেক্ষতা, সততা জনসমক্ষে প্রতিষ্ঠা করিতে হইবে। তাঁহার স্মরণ রাখা প্রয়োজন যে, তিনি কোনো

ক্ষমতার উৎস নহেন এবং আইনের অধীনে সকলের স্বার্থ বা অধিকার নিশ্চিত করেন মাত্র।

১৭। বিচারকগণের ইহা স্মরণ রাখা প্রয়োজন যে, তিনি নিজে একজন মানুষ হইয়া অন্যান্য মানুষের বিচার করার সুমহান দায়িত্ব গ্রহণ করিয়া প্রকারান্তরে তিনি সর্বশক্তিমান আল্লাহ তা'লার প্রতিনিধিরূপে এই কঠিন দায়িত্ব পালন করিতেছেন। সুতরাং ভুলত্রুটি ও অবহেলার জন্য ন্যায় বিচার নিশ্চিত না হইলে তাহাকে মহান আল্লাহ তা'লার কাছে জবাবদিহি করিতে হইবে।

Appendix III

Synopsis of various Forms of Confidential Reports

(See Rule 420)

SI No.	Judges/Magistrates	
01	District and Sessions Judge …. Form No. M 8B of Civil Rules and Orders, Vol-II	Already in used
02	Additional District and Sessions Judge …. Form No. M 8A of Civil Rules and Orders, Vol-II	Already in used
03	Joint District and Sessions Judge …. Form No. M 8 of Civil Rules and Orders, Vol-II	Already in used
04	Metropolitan Sessions Judge/Special Judge/Judge of Criminal Court or Tribunal in the rank and status of Sessions Judge ……. Form No. (M) 40	
05	Metropolitan Additional Sessions Judge ……. Form No. (M) 40A	
06	Metropolitan Joint Sessions Judge ……. Form No. (M) 40B	
07	Chief Metropolitan Magistrate/Chief Judicial Magistrate…… Form No. (M) 41	
08	Additional Chief Metropolitan Magistrate/Additional Chief Judicial Magistrate/Senior Judicial Magistrate (Metropolitan Magistrate, Magistrate 1st Class and Special Magistrate)…… Form No. (M) 41 A	
09	Judicial Magistrate (2nd Class Magistrate/3rd Class Magistrate)…… Form No. (M) 41 B	

the end

****
^^^^^^^^^^-পাবলিকেশন-^^^^^^^^^^

^^^^^^ফৌজ পাল পাবলিকেশন^^^^^^
========মুনিগঞ্জ, বাগেরহাট======

•••পিডিএফ প্রাপ্তি স্থান যোগাযোগ••••
Gopal Chandra Paul
Bench Assistant।
gopalchandrapaul@yahoo.com